

FCC Part 61 – Summary of Rule Revisions

1. Replace “access” with “inter-carrier (access and reciprocal compensation)” or deleted “access” in the following sections in order to clarify that the part 69 rules apply to access and reciprocal compensation inter-carrier traffic or usage.

(a) Section contents – 61.39

(b) Subpart A – 61.3(e)(ii), 61.3(tt)

(c) Subpart E – 61.33(b), 61.38(a), 61.39, 61.39(a), 61.42(d)(4)(i), 61.42(e)(i), 61.45(b)(1)(i), 61.45(b)(2), 61.42(d)(2), 61.49(k)

2. Inter-carrier tariffed charges are applied to all Retail Service Provider interoffice traffic (including reciprocal compensation arrangements, ISP traffic and Expanded Area Service where necessary) that use local exchange carrier facilities to originate and/or transport and/or terminate their traffic. Deleted interstate or foreign where appropriate. Defined Retail Service Provider (RSP) – Replaced Interexchange Carrier or carrier’s carrier with RSP, or added RSP to clarify that charges are applied to all RSPs.

(a) Subpart A – 61.3(e)(i), 61.3(e)(ii), 61.3(n), 61.3(aaa), 61.3(bbb), 61.3(ccc), 61.3(ddd)

(b) Subpart C – 61.26, 61.26(a)(1) to (a)(3), 61.26(a)(5), 61.26(b) to (f)

(c) Subpart E – 61.38(b)(4), 61.42(d)(2) to (d)(3), 61.42(d)(4)(i)

3. File unitary rate interconnection tariffs with the Commission and appropriate state commission. Rates are applicable to all access and reciprocal compensation usage unless a negotiated or arbitrated rate exists or is mutually agreed to.

(a) Subpart A – 61.1(d), 61.1(e)

4. Delete local from switching and transport.

(a) Subpart A – 61.3(e)(ii)

(b) Subpart E – 61.42(e)(1)(i), 61.42(e)(1)(v), 61.45(i)(2)(iii), 61.47(e)(1)(i), 61.47(e)(1)(vi), 61.48(o)(1)

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Title 47: Telecommunication
PART 61 TARIFFS

Section Contents

Subpart A General

- § 61.1 Purpose and application.
- § 61.2 General tariff requirements.
- § 61.3 Definitions.
- §§ 61.11-61.12 [Reserved]

Subpart B Rules for Electronic Filing

- § 61.13 Scope.
- § 61.14 Method of filing publications.
- § 61.15 Letters of transmittal and cover letters.
- § 61.16 Base documents.
- § 61.17 Method of filing applications for special permission.

Subpart C General Rules for Non-dominant Carriers

- § 61.18 Scope.
- § 61.19 Detariffing of international and interstate, domestic interexchange services.
- § 61.20 Method of filing publications.
- § 61.21 Cover letters.
- § 61.22 Composition of tariffs.
- § 61.23 Notice requirements.
- § 61.25 References to other instruments.
- § 61.26 Tariffing of competitive exchange services.

Subpart D General Tariff Rules for International Dominant Carriers

- § 61.28 International dominant carrier tariff filing requirements.

Subpart E General Rules for Dominant Carriers

- § 61.31 Scope.
- § 61.32 Method of filing publications.
- § 61.33 Letters of transmittal.

- § 61.38 Supporting information to be submitted with letters of transmittal.
- § 61.39 Optional supporting information to be submitted with letters of transmittal for Inter-carrier Compensation (Access and Reciprocal Compensation) Tariff filings effective on or after April 1, 1989, by local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in §69.602.
- § 61.40 Private line rate structure guidelines.
- § 61.41 Price cap requirements generally.
- § 61.42 Price cap baskets and service categories.
- § 61.43 Annual price cap filings required.
- § 61.44 [Reserved]
- § 61.45 Adjustments to the PCI for Local Exchange Carriers.
- § 61.46 Adjustments to the API.
- § 61.47 Adjustments to the SBI; pricing bands.
- § 61.48 Transition rules for price cap formula calculations.
- § 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.
- §§ 61.50-61.51 [Reserved]
- § 61.52 Form, size, type, legibility, etc.
- § 61.54 Composition of tariffs.
- § 61.55 Contract-based tariffs.
- § 61.58 Notice requirements.
- § 61.59 Effective period required before changes.

Subpart F Specific Rules for Tariff Publications of Dominant and Non-dominant Carriers

- § 61.66 Scope.
- § 61.68 Special notations.
- § 61.69 Rejection.
- § 61.72 Public information requirements.
- § 61.73 Duplication of rates or regulations.
- § 61.74 References to other instruments.
- § 61.83 Consecutive numbering.
- § 61.86 Supplements.
- § 61.87 Cancellation of tariffs.

Subpart G Concurrences

- § 61.131 Scope.
- § 61.132 Method of filing concurrences.
- § 61.133 Format of concurrences.
- § 61.134 Concurrences for through services.
- § 61.135 Concurrences for other purposes.
- § 61.136 Revocation of concurrences.

Subpart H Applications for Special Permission

§ 61.151 Scope.

§ 61.152 Terms of applications and grants.

§ 61.153 Method of filing applications.

Subpart I Adoption of Tariffs and Other Documents of Predecessor Carriers

§ 61.171 Adoption notice.

§ 61.172 Changes to be incorporated in tariffs of successor carrier.

Subpart J Suspensions

§ 61.191 Carrier to file supplement when notified of suspension.

§ 61.192 Contents of supplement announcing suspension.

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

Authority: Secs. 1, 4(i), 4(j), 201–205 and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205 and 403, unless otherwise noted.

Source: 49 FR 40869, Oct. 18, 1984, unless otherwise noted.

Subpart A General

§ 61.1 Purpose and application.

(a) The purpose of this part is to prescribe the framework for the initial establishment of and subsequent revisions to tariff publications.

(b) Tariff publications filed with the Commission must conform to the rules in this part and with Commission rules regarding the payment of statutory charges (see subpart G of part 1 of this title) and the use of FCC Registration Numbers (FRNs) (see subpart W of part 1 of this title). Failure to comply with any provisions of these rules may be grounds for rejection of the non-complying publication, a determination that it is unlawful or other action. Where an FRN has been omitted from a cover letter or transmittal accompanying a tariff publication filed under this part or the FRN included in that letter is invalid, the submitting carrier or carrier representative shall have ten (10) business days from the date of filing to amend the cover letter or transmittal to include a valid FRN. If within that ten (10) business day period, the carrier or carrier representative amends the cover letter or transmittal to include a valid FRN, that FRN shall be deemed to have been included in the letter as of its original filing date. If, after the expiration of the ten (10) business day period, the cover letter or transmittal has not been amended to include a valid FRN, the related tariff publication may be rejected if it has not yet become effective, declared unlawful if it has become effective, or subject to other action.

(c) No carrier required to file tariffs may provide any communication service until every tariff publication for such communication service is on file with the Commission and in effect.

(d) On XXXXXXXX, XX, XXXX, unitary intercarrier compensation tariffs complying with parts 61 and 69 must be filed with the Commission. On the same day, this tariff filing must be filed with the

appropriate state jurisdiction. Within 15 days, the filed rates will go into effect as filed unless the Commission or State Commission suspends the rates. If suspended, the rates would go into effect without a determination of legality. The same process shall be followed with each subsequent tariff filing. If suspended, the Commission and State Commission must reach a final decision on the filed rate levels within 60 days from the date the rates were filed.

(e) Inter-carrier Compensation tariff rates filed and approved under this section are applicable to all access or reciprocal compensation services of local exchange carriers utilized by RSPs, unless an approved (negotiated or arbitrated) interconnection agreement per Section 251 of the Act is in effect as of XXXXXXXX, XX, XXXX or unless a negotiated or arbitrated agreement for reciprocal compensation is subsequently mutually agreed to by both RSPs.

[49 FR 40869, Oct. 18, 1984, as amended at 66 FR 47896, Sept. 14, 2001]

§ 61.2 General tariff requirements.

(a) In order to remove all doubt as to their proper application, all tariff publications must contain clear and explicit explanatory statements regarding the rates and regulations.

(b) Tariff publications must be delivered to the Commission free from all charges, including claims of postage.

(c) Tariff publications will not be returned.

[64 FR 46586, Aug. 26, 1999]

§ 61.3 Definitions.

(a) *Act*. The Communications Act of 1934 (48 Stat. 1004; 47 U.S.C. chapter 5), as amended.

(b) *Actual Price Index (API)*. An index of the level of aggregate rate element rates in a basket, which index is calculated pursuant to §61.46.

(c) *Association*. This term has the meaning given it in §69.2(d).

(d) *Average Price Cap CMT Revenue per Line month*. (1) Price Cap CMT Revenue (as defined in §61.3(cc)) per month as of July 1, 2000 (adjusted to remove Universal Service Contributions assessed to local exchange carriers pursuant to §54.702 of this chapter) using 2000 annual filing base period demand, divided by the 2000 annual filing base period demand. In filing entities with multiple study areas, if it becomes necessary to calculate the Average Price Cap CMT Revenue per Line month for a specific study area, then the Average Price Cap CMT Revenue per Line month for that study area is determined as follows, using base period demand revenues (adjusted to remove Universal Service Contributions assessed to Local Exchange Carriers pursuant to §54.702 of this chapter), Base Factor Portion (BFP) and 2000 annual filing base period lines:

Average Price Cap CMT Revenue per Line Month in a study area = Price Cap CMT Revenue \times (BFP in the study area \div (BFP in the Filing Entity) \div (Lines in the study area).

(2) Nothing in this definition precludes a price cap local exchange carrier from continuing to average rates across filing entities containing multiple study areas, where permitted under existing rules.

(3) Average Price Cap CMT Revenues per Line month may be adjusted after July 1, 2000 to reflect exogenous costs pursuant to §61.45(d).

(4) Average Price Cap CMT Revenues per Line month may also be adjusted pursuant to §61.45(b)(1)(iii).

(e) *Average Traffic Sensitive Charge.* (1) The Average Traffic Sensitive Charge (ATS charge) is the sum of the following two components:

(i) The Interoffice Switching component. The Interoffice Switching component will be calculated by dividing the proposed Interoffice Switching costs (End Office Switch, Interoffice Switching trunk ports, Information Surcharge, and signalling transfer point (STP) port) by the base period interoffice minutes of use (MOUs); and

(ii) The Transport component. The Transport component will be calculated by dividing the proposed Transport costs (Switched Direct Trunk Transport, Signalling for Switched Direct Trunk Transport, Entrance Facilities for Switched traffic, Tandem Switched Transport, Signalling for Tandem Switching by local exchange carrier only base period interoffice MOUs (including meet-point billing arrangements for jointly-provided access and reciprocal compensation by a price cap local exchange carrier and any other local exchange carrier).

(2) For the purposes of determining whether the ATS charge has reached the Target Rate as set forth in §61.3(qq), the calculations should include all the relevant revenues and minutes for services provided under generally available price cap tariffs.

(f) *Band.* A zone of pricing flexibility for a service category, which zone is calculated pursuant to §61.47.

(g) *Base period.* For carriers subject to §§61.41 through 61.49, the 12-month period ending six months prior to the effective date of annual price cap tariffs. Base year or base period earnings shall exclude amounts associated with exogenous adjustments to the PCI for the lower formula adjustment mechanism permitted by §61.45(d)(1)(vii).

(h) *Basket.* Any class or category of tariffed service or charge:

(1) Which is established by the Commission pursuant to price cap regulation;

(2) The rates of which are reflected in an Actual Price Index; and

- (3) The related revenues of which are reflected in a Price Cap Index.
- (i) *Change in rate structure.* A restructuring or other alteration of the rate components for an existing service.
- (j) *Charges.* The price for service based on tariffed rates.
- (k) *Commercial contractor.* The commercial firm to whom the Commission annually awards a contract to make copies of Commission records for sale to the public.
- (l) *Commission.* The Federal Communications Commission.
- (m) *Concurring carrier.* A carrier (other than a connecting carrier) subject to the Act which concurs in and assents to schedules of rates and regulations filed on its behalf by an issuing carrier or carriers.
- (n) *Connecting carrier.* A carrier engaged in communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with, such carrier.
- (o) *Contract-based tariff.* A tariff based on a service contract entered into between a non-dominant carrier and a customer, or between a customer and a price cap local exchange carrier which has obtained permission to offer contract-based tariff services pursuant to part 69, subpart H, of this chapter.
- (p) *Corrections.* The remedy of errors in typing, spelling, or punctuation.
- (q) *Dominant carrier.* A carrier found by the Commission to have market power (*i.e.*, power to control prices).
- (r) *GDP Price Index (GDP PI).* The estimate of the Chain Type Price Index for Gross Domestic Product published by the United States Department of Commerce, which the Commission designates by Order.
- (s) *GNP Price Index (GNP PI).* The estimate of the Fixed-Weighted Price Index for Gross National Product, 1982 Weights published by the United States Department of Commerce, which the Commission designates by Order.
- (t) *Issuing carrier.* A carrier subject to the Act that publishes and files a tariff or tariffs with the Commission.
- (u) *Line month.* Line demand per month multiplied by twelve.
- (v) *Local exchange carrier.* Any person that is engaged in the provision of telephone exchange service or exchange access as defined in section 3(26) of the Act.

- (w) *Mid-size company*. All price cap local exchange carriers other than the Regional Bell Operating Companies and GTE.
- (x) *New service offering*. A tariff filing that provides for a class or sub-class of service not previously offered by the carrier involved and that enlarges the range of service options available to ratepayers.
- (y) *Non-dominant carrier*. A carrier not found to be dominant. The non-dominant status of providers of international interexchange services for purposes of this subpart is not affected by a carrier's classification as dominant under §63.10 of this chapter.
- (aa) *Price Cap Local Exchange Carrier*. A local exchange carrier subject to regulation pursuant to §61.41 through 61.49.
- (bb) *Pooled Local Switching Revenue*. For certain qualified companies as set forth in §61.48 (m), is the amount of additional local switching reductions in the July 2000 Annual filing allowed to be moved and recovered in the CMT basket.
- (cc) *Price Cap CMT Revenue*. The maximum total revenue a filing entity would be permitted to receive from End User Common Line charges under §69.152 of this chapter, Presubscribed Interexchange Carrier charges (PICCs) under §69.153 of this chapter, Carrier Common Line charges under §69.154 of this chapter, and Marketing under §69.156 of this chapter, using Base Period lines. Price Cap CMT Revenue does not include the price cap local exchange carrier universal service contributions as of July 1, 2000. The Price Cap CMT revenue does not include the pooled local switching revenue outlined in paragraph (bb) of this section.
- (dd) *Price Cap Index (PCI)*. An index of prices applying to each basket of services of each carrier subject to price cap regulation, and calculated pursuant to §61.45.
- (ee) *Price cap regulation*. A method of regulation of dominant carriers provided in §§61.41 through 61.49.
- (ff) *Price cap tariff filing*. Any tariff filing involving a service subject to price cap regulation, or that requires calculations pursuant to §§61.45, 61.46, or 61.47.
- (gg) [Reserved]
- (hh) *Rate*. The tariffed price per unit of service.
- (ii) *Rate increase*. Any change in a tariff which results in an increased rate or charge to any of the filing carrier's customers.
- (jj) *Rate level change*. A tariff change that only affects the actual rate associated with a rate element, and does not affect any tariff regulations or any other wording of tariff language.
- (kk) *Regulations*. The body of carrier prescribed rules in a tariff governing the offering of service in

that tariff, including rules, practices, classifications, and definitions.

(ll) *Restructured service*. An offering which represents the modification of a method of charging or provisioning a service; or the introduction of a new method of charging or provisioning that does not result in a net increase in options available to customers.

(mm) *Rural Company*. A company that, as of December 31, 1999, was certified to the Commission as a rural telephone company.

(nn) *Service Band Index (SBI)*. An index of the level of aggregate rate element rates in a service category, which index is calculated pursuant to §61.47.

(oo) *Service category*. Any group of rate elements subject to price cap regulation, which group is subject to a band.

(pp) *Supplement*. A publication filed as part of a tariff for the purpose of suspending or canceling that tariff, or tariff publication and numbered independently from the tariff page series.

(qq) *Target Rate*. The applicable Target Rate shall be defined as follows:

(1) For regional Bell Operating Companies and GTE, \$0.0055 per ATS minute of use;

(2) For a holding company with a holding company average of less than 19 Switched Access End User Common Line charge lines per square mile served such company may elect to use a Target Rate of \$0.0095 with respect to all exchanges owned by that holding company on July 1, 2000, or which that holding company is, as of April 1, 2000, under a binding and executed contract to purchase;

(3) For other price cap local exchange carriers, \$0.0065 per ATS minute of use.

(rr) *Tariff*. Schedules of rates and regulations filed by common carriers.

(ss) *Tariff publication, or publication*. A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations filed by common carriers.

(tt) *Tariff year*. The period from the day in a calendar year on which a carrier's annual inter-carrier compensation tariff filing is scheduled to become effective through the preceding day of the subsequent calendar year.

(uu) *Text change*. A change in the text of a tariff which does not result in a change in any rate or regulation.

(vv) *United States*. The several States and Territories, the District of Columbia, and the possessions of the United States.

(ww) *Corridor service*. Corridor service refers to interLATA services offered in the limited corridors established by the District Court in *United States v. Western Electric Co., Inc.*, 569 F. Supp. 1057, 1107 (D.D.C. 1983).

(xx) *Toll dialing parity*. Toll dialing parity exists when there is dialing parity, as defined in §51.5 of this chapter, for toll services.

(yy) *Loop-based services*. Loop-based services are services that employ Subcategory 1.3 facilities, as defined in §36.154 of this chapter.

(zz) *Zone Average Revenue per Line*. The amount calculated as follows:

Zone Average Revenue per Line = (25% * (Loop + Port)) + U (Uniform revenue per line adjustment)

Where:

Loop = the price for unbundled loops in a UNE zone. Port = the price for switch ports in that UNE zone. U = [(Average Price Cap CMT Revenue per Line month in a study area * price cap local exchange carrier Base Period Lines) – (25% * Σ (price cap local exchange carrier Base Period Lines in a UNE Zone * ((Loop + Port) for all zones)))] ÷ price cap local exchange carrier Base Period Lines in a study area.

(aaa) *Retail Service Provider (RSP)*. Any telecommunications service provider, including enhanced service providers or information service providers that offers and provides retail services to its customers either as a stand alone service or bundled with other telecommunications and/or enhanced and/or information services and provides those services utilizing the originating and/or transport and/or terminating facilities of a local exchange carrier.

(bbb) Inter-carrier compensation. Inter-carrier service charges (interstate access, intrastate access, reciprocal compensation) that a local exchange carrier bills to and payments received from a RSP for the provision of originating and/or transport and/or terminating facilities by a local exchange carrier that a RSP uses to provide its customer service.

(ccc) *Interoffice Facilities*. Net investment and related costs (taxes, expenses) assigned to interstate or international and intrastate interexchange services by the procedures set forth in the Separations Manual and part 69 of this chapter.

(ddd) *Reciprocal compensation*. The duty of an RSP to establish compensation arrangements for the transport and termination of telecommunications traffic that originates on the network facilities of that RSP and terminates on the facilities of another telecommunications carrier in the same local area.

[54 FR 19840, May 8, 1989, as amended at 55 FR 42382, Oct. 19, 1990; 56 FR 55239, Oct. 25, 1991; 58 FR 36147, July 6, 1993; 59 FR 10301, Mar. 4, 1994; 60 FR 19527, Apr. 19, 1995; 60 FR 20052, Apr. 24, 1995; 61 FR 59366, Nov. 22, 1996; 62 FR 5777, Feb. 7, 1997; 62 FR 31930, June 11, 1997; 64 FR 46586, Aug. 26, 1999; 64 FR 51265, Sept. 22, 1999; 65 FR 38694, June 21, 2000; 65 FR 57740, 57741, Sept. 26, 2000; 66 FR 16881, Mar. 28, 2001]

§§ 61.11-61.12 [Reserved]

Subpart B Rules for Electronic Filing

Source: 63 FR 35540, June 30, 1998, unless otherwise noted.

§ 61.13 Scope.

- (a) This applies to all tariff publications of carriers required to file tariff publications electronically, and any tariff publication that a carrier chooses to file electronically.
- (b) All incumbent local exchange carriers are required to file tariff publications electronically.
- (c) All tariff publications shall be filed in a manner that is compatible and consistent with the technical requirements of the Electronic Tariff Filing System.

§ 61.14 Method of filing publications.

(a) Publications filed electronically must be addressed to Secretary, Federal Communications Commission, Washington, DC 20554. The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in §1.4(e)(2) of this Chapter, the filing will be date and time stamped as of the opening of the next business day.

(b)(1) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in §1.1105 of this chapter.

(2) Issuing carriers filing tariffing fees electronically must submit the Form 159. The issuing carrier may submit the Form 159 in either of the methods set forth in paragraphs (b)(2)(i) or (b)(2)(ii) of this

section:

(i) Issuing carriers submitting tariffing fees electronically may submit a paper copy of the Form 159, and the original transmittal letter to the Secretary of the Commission in lieu of the Mellon Bank, or;

(ii) Issuing carriers submitting tariffing fees electronically may submit a copy of the Form 159 electronically as an associated document with their tariff filing publication. In this instance issuing carriers must provide an electronic signature on their letter of transmittal in accordance with section 1.52 of this chapter.

(iii) Regardless of whether the Form 159 is submitted pursuant to paragraph (b)(2)(i) or (b)(2)(ii) of this section, the Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved." Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

(c) Carriers that are required to file publications electronically may not file those publications on paper or other media unless specifically required to do so by the Commission.

(d) Carriers that are required to file publications electronically need only transmit one set of files to the Commission. No other copies to any other party are required.

(e) Carriers that are required to file publications electronically must continue to comply with the format requirements set forth in part 61.

[63 FR 35540, June 30, 1998, as amended at 64 FR 46586, Aug. 26, 1999]

§ 61.15 Letters of transmittal and cover letters.

(a) All tariff publications filed with the Commission electronically must be accompanied by a letter of transmittal. All letters of transmittal must:

- (1) Concisely explain the nature and purpose of the filing;
- (2) Specify whether supporting information is required for the new tariff or tariff revision, and specify the Commission rule or rules governing the supporting information requirements for that filing;
- (3) Contain a statement indicating the date and method of filing of the original of the transmittal as required by §61.14(b);
- (4) Include the FCC Registration Number (FRN) of the carrier(s) on whose behalf the cover letter is submitted. See subpart W of part 1 of this title.

(b) Carriers filing tariffs electronically pursuant to the notice requirements of section 204(a)(3) of the Communications Act shall display prominently, in the upper right hand corner of the letter of

transmittal, a statement that the filing is made pursuant to that section and whether the tariff is filed on 7 or 15 days notice.

(c) Any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal the name, room number, street address, telephone number, and facsimile number of the individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under §1.773(a)(4) of this chapter.

(d) The letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication and may not be requested in the transmittal letter.

(e) The letter of transmittal must be substantially in the format established in §§61.33(g) and 61.33(h)(1).

(f) All submissions of documents other than a new tariff or revisions to an existing tariff, such as Base Documents or Tariff Review Plans, must be accompanied by a cover letter that concisely explains the nature and purpose of the filing. Publications submitted under this paragraph are not required to submit a tariffing fee.

[63 FR 35540, June 30, 1998, as amended at 66 FR 47896, Sept. 14, 2001]

§ 61.16 Base documents.

(a) The Base Document is a complete tariff which incorporates all effective revisions, as of the last day of the preceding month. The Base Document should be submitted with a cover letter as specified in §61.15(f) of this part and identified as the *Monthly Updated Base Document*.

(b) Initially, carriers that currently have tariffs on file with the commission must file a Base Document within five days of the initiation of mandatory electronic filing.

(c) Subsequently, if there have been revisions that became effective up to and including the last day of the preceding month, a new Base Document must be submitted within the first five business days of the current month that will incorporate those revisions.

§ 61.17 Method of filing applications for special permission.

(a) An application for special permission filed electronically must be addressed to "Secretary, Federal Communications Commission, Washington, DC 20554. The Electronic Tariff Filing System will accept filings 24 hours a day, seven days a week. The official filing date of a publication received by the Electronic Tariff Filing System will be determined by the date and time the transmission ends. If the transmission ends after the close of a business day, as that term is defined in §1.4(e)(2) of this chapter, the filing will be date and time stamped as of the opening of the next business day.

(b) In addition, except for issuing carriers filing tariffing fees electronically, for special permission

applications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the application letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA, at the address set forth in §1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit a copy of the Form 159 and the original application letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked reserved. Issuing carriers should submit these fee materials on the same day as the transmission in paragraph (a) of this section.

(c) In addition, if a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No. _____

(Date)_____

Secretary

Federal Communications Commission

Washington, DC 20554.

Attention: Wireline Competition Bureau (here provide the statements required by section 61.152).

(Exact name of carrier)_____

(Name of officer or agent)_____

(Title of officer or agent)_____

[63 FR 35540, June 30, 1998, as amended at 64 FR 46586, Aug. 26, 1999; 67 FR 13228, Mar. 21, 2002]

Subpart C General Rules for Non-dominant Carriers

§ 61.18 Scope.

The rules in this subpart apply to all non-dominant carriers.

[64 FR 46587, Aug. 26, 1999]

§ 61.19 Detariffing of international and interstate, domestic interexchange services.

- (a) Except as otherwise provided in paragraphs (b) through (e) of this section, or by Commission order, carriers that are non-dominant in the provision of international and interstate, domestic interexchange services shall not file tariffs for such services.
- (b) Carriers that are non-dominant in the provision of international and domestic, interstate, interexchange services are permitted to file tariffs for dial-around 1+ services. For the purposes of this paragraph, dial-around 1+ calls are those calls made by accessing the interexchange carrier through the use of that carrier's carrier access code.
- (c) Carriers that are non-dominant in the provision of international and domestic, interstate, interexchange services are permitted to file a tariff for such services applicable to those customers who contact the local exchange carrier to designate an interexchange carrier or to initiate a change with respect to their primary interexchange carrier. Such tariff will enable the interexchange carrier to provide service to the customer until the interexchange carrier and the customer consummate a written agreement, but in no event shall the interexchange carrier provide service to its customer pursuant to such tariff for more than 45 days.
- (d) Carriers that are non-dominant in the provision of international inbound collect calls to the United States are permitted to file a tariff for such services.
- (e) Carriers that are non-dominant in the provision of "on-demand" Mobile Satellite Services are permitted to file a tariff for such services applicable to those customers that have not entered into pre-existing service contracts designating a specific provider for such services.

[66 FR 16881, Mar. 28, 2001]

§ 61.20 Method of filing publications.

- (a) Publications sent for filing must be addressed to Secretary, Federal Communications Commission, Washington, DC 20554. The date on which the publication is received by the Secretary of the Commission (or the Mail Room where submitted by mail) is considered the official filing date.
- (b)(1) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in §1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked "reserved." Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.
- (2) International carriers must certify in their original cover letter that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the issuing carrier must send a copy of the cover letter with one 3 1/2 inch diskette or CD ROM containing both the complete tariff and any attachments, as appropriate, to the Secretary, Federal Communications Commission. In addition, the issuing carrier must send one diskette or CD ROM of the complete tariff and a copy of the cover letter to the commercial contractor (at its office on Commission premises), and to the Chief, Tariff and Pricing Analysis Branch. The latter should be clearly labeled as the Public Reference Copy. The issuing carrier should file the copies required by this paragraph so they will be received on the same date as the filings in paragraph (a) of this section. In cases where the a single diskette or CD ROM does not provide sufficient capacity for the carrier's entire tariff filing, the issuing carrier may submit two or more diskettes, or two or more CD ROMs, as necessary.

[58 FR 44460, Aug. 23, 1993, as amended at 61 FR 15726, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996, and further redesignated and amended at 64 FR 46587, Aug. 26, 1999]

§ 61.21 Cover letters.

(a)(1) Except as specified in §61.32(b), all publications filed with the Commission must be accompanied by a cover letter, 8.5 by 11 inches (21.6 cm × 27.9 cm) in size, and must be plainly printed in black ink. All transmittal letters should briefly explain the nature and purpose of the filing and indicate the date and method of filing of the original cover letter, as required by §61.20(b)(1) of this part.

(2) International carriers must certify that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

(3) All cover letters and letters of transmittal shall include the FCC Registration Number (FRN) of the issuing carrier(s) on whose behalf the letter is submitted. See part 1, subpart W of this chapter.

(b) A separate cover letter may accompany each publication, or an issuing carrier may file as many publications as desired with one cover letter.

Note:

If a receipt for accompanying publication is desired, the cover letter must be sent in duplicate. One copy showing the date of the receipt by the Commission will then be returned to the sender.

[58 FR 44460, Aug. 23, 1993, as amended at 61 FR 15726, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996, and further redesignated and amended at 64 FR 46587, Aug. 26, 1999; 66 FR 47896, Sept. 14, 2001]

§ 61.22 Composition of tariffs.

(a) The tariff must be submitted on a 3 1/2 inch (8.89 cm) diskette, or a 5 inch CD ROM, formatted in an IBM-compatible form using either WordPerfect 5.1, Microsoft Word 6, or Microsoft Word 97

software. No diskettes shall contain more than one tariff. The diskette or CD ROM must be submitted in read only mode. The diskette or CD ROM must be clearly labeled with the carrier's name, Tariff Number, software used, and the date of submission. When multiple diskettes or CD ROMs are submitted, the issuing carrier shall clearly label each diskette in the following format:

1 of 2 of 3, etc.

(b) The tariff must contain the carrier's name, the international Section 214 authorization FCC file number (when applicable), and the information required by Section 203 of the Act.

(c)(1) Changes to a tariff must be made by refileing the entire tariff on a new diskette, with the changed material included. The carrier must indicate in the tariff what changes have been made.

(2) Any issuing carrier submitting an individual tariff that requires ten or more diskettes that wishes to revise its tariff is permitted to do so by filing a diskette containing only those pages on which the changed material is located. Any such carrier shall file a current effective version of its entire tariff on the first business day of each month. For purposes of this paragraph, "business day" is defined in §1.4(e)(2) of this chapter.

(d) Domestic and international non-dominant carriers subject to the provisions of this section are not subject to the tariff filing requirements of §61.54.

(e)(1) For contract-based tariffs defined in §61.3(m), a separate letter of transmittal may accompany each tariff filed, or the above format may be modified for filing as many publications as may be desired with one transmittal letter. The transmittals must be numbered in a series separate from transmittals for non-contract tariff filing. Numbers must appear on the face of the transmittal and be in the form of CTT No. ____, using CTT as an abbreviation for contract-based tariff transmittals, or some similar form that indicates that the transmittal is a contract-based tariff transmittal. Contract-based tariffs must also be numbered in a series separate from non-contract-based tariffs. Numbers must be in the form of CT No. ____, using CT as an abbreviation for contract-based tariffs, or some similar form that indicates that the tariff is a contract-based tariff. Each contract-based tariff must be assigned a separate number. Transmittals and tariffs subject to this paragraph shall be filed beginning with the number 1 and shall be numbered consecutively.

(2) Composition of contract-based tariffs shall comply with §§61.54 (b) through (i).

(3) Contract-based tariffs shall include the following:

(i) The term of the contract, including any renewal options;

(ii) A brief description of each of the services provided under the contract;

(iii) Minimum volume commitments for each service;

(iv) The contract price for each service or services at the volume levels committed to by the

customers;

(v) A general description of any volume discounts built into the contract rate structure; and

(vi) A general description of other classifications, practices and regulations affecting the contract rate.

[58 FR 44460, Aug. 23, 1993; 58 FR 48323, Sept. 15, 1993, as amended at 61 FR 15727, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996, and further redesignated and amended at 64 FR 46587, Aug. 26, 1999]

§ 61.23 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(b) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. In computing the notice period required, all days including Sundays and holidays must be counted.

(c) All tariff filings of domestic and international non-dominant carriers must be made on at least one day's notice.

[58 FR 44460, Aug. 23, 1993, as amended at 61 FR 15727, Apr. 9, 1996. Redesignated at 61 FR 59366, Nov. 22, 1996, and further redesignated and amended at 64 FR 46587, 46588, Aug. 26, 1999]

§ 61.25 References to other instruments.

In addition to the cross-references permitted pursuant to §61.74, a non-dominant carrier may cross-reference in its tariff publication only the rate provisions of another carrier's FCC tariff publication, provided that the following conditions are met:

(a) The tariff being cross-referenced must be on file with the Commission and in effect;

(b) The issuing carrier must specifically identify in its tariff the cross-referenced tariff by Carrier Name and FCC Tariff Number;

(c) The issuing carrier must specifically identify in its tariff the rates being cross-referenced so as to leave no doubt as to the exact rates that will apply, including but not limited to any applicable credits, discounts, promotions; and

(d) The issuing carrier must keep its cross-references current.

[64 FR 46588, Aug. 26, 1999]

§ 61.26 Tariffing of competitive switched exchange access and reciprocal compensation services.

(a) *Definitions.* For purposes of this section 61.26, the following definitions shall apply:

(1) CLEC shall mean a local exchange carrier that provides some or all of the interoffice exchange access and reciprocal compensation services used to send traffic to or from an end user and does not fall within the definition of incumbent local exchange carrier in 47 U.S.C. 251(h).

(2) Competing ILEC shall mean the incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide exchange access and reciprocal compensation services, in whole or in part, to the extent those services were not provided by the CLEC.

(3) *Switched exchange access and reciprocal compensation services* shall include the functional equivalent of the ILEC exchange services typically associated with following rate elements: carrier common line (originating); carrier common line (terminating); local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching, except that carrier common line is not applicable to reciprocal compensation.

(4) *Non-rural ILEC* shall mean an incumbent local exchange carrier that is not a *rural telephone company* under 47 U.S.C. 153(37).

(5) The *rate* for switched exchange access and reciprocal compensation services shall mean the composite, per-minute rate for these services, including all applicable fixed and traffic-sensitive charges.

(6) *Rural CLEC* shall mean a CLEC that does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:

(i) Any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or

(ii) An urbanized area, as defined by the Census Bureau.

(b) Except as provided in paragraphs (c) and (e) of this section, a CLEC shall not file a tariff for its switched exchange access and reciprocal compensation services that prices those services above the higher of:

(1) The rate charged for such services by the competing ILEC or

(2) The lower of:

- (i) The benchmark rate described in paragraph (c) of this section or
- (ii) The lowest rate that the CLEC has tariffed for its interstate exchange access services, within the six months preceding June 20, 2001.
- (c) From June 20, 2001 until June 20, 2002, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.025 per minute. From June 20, 2002 until June 20, 2003, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.018 per minute. From June 20, 2003 until June 21, 2004, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.012 per minute. After June 21, 2004, and subject to the provisions of §69.5, the benchmark rate for a CLEC's switched exchange access and reciprocal compensation services will be the rate charged for similar services by the competing ILEC, *provided, however*, that the benchmark rate for a CLEC's switched exchange access services will not move to bill-and-keep, if at all, until June 20, 2005.
- (d) Notwithstanding paragraphs (b) and (c) of this section, in the event that, after June 20, 2001, a CLEC begins serving end users in a metropolitan statistical area (MSA) where it has not previously served end users, the CLEC shall not file a tariff for its exchange access and reciprocal compensation services in that MSA that prices those services above the rate charged for such services by the competing ILEC.
- (e) Rural exemption. Notwithstanding paragraphs (b) through (d) of this section, a rural CLEC competing with a non-rural ILEC shall not file a tariff for its exchange access and reciprocal compensation services that prices those services above the rate prescribed in the NECA inter-carrier compensation tariff, assuming the highest rate band for switching. In addition to that NECA rate, the rural CLEC may assess a subscribed interexchange carrier charge if, and only to the extent that, the competing ILEC assesses this charge.
- (f) If a CLEC provides some portion of the switched exchange access and reciprocal compensation services used to send traffic to or from an end user not served by that CLEC, the rate for the access and reciprocal compensation services provided may not exceed the rate charged by the competing ILEC for the same access and reciprocal compensation services.

[66 FR 27900, May 21, 2001; 66 FR 28774, May 24, 2001; 69 FR 35269, June 24, 2004]

Subpart D General Tariff Rules for International Dominant Carriers
§ 61.28 International dominant carrier tariff filing requirements.

- (a) Any carrier classified as dominant for the provision of particular international communications services on a particular route for any reason other than a foreign carrier affiliation under §63.10 of this chapter shall file tariffs for those services pursuant to the notice and cost support requirements for tariff filings of dominant domestic carriers, as set forth in subpart E of this part.

(b) Other than the notice and cost support requirements set forth in paragraph (a) of this section, all tariff filing requirements applicable to all carriers classified as dominant for the provision of particular international communications services on a particular route for any reason other than a foreign carrier affiliation pursuant to §63.10 of this chapter are set forth in subpart C of this part.

[66 FR 16881, Mar. 28, 2001]

Subpart E General Rules for Dominant Carriers

§ 61.31 Scope.

The rules in this subpart apply to all dominant carriers.

[64 FR 46588, Aug. 26, 1999]

§ 61.32 Method of filing publications.

(a) Publications sent for filing must be addressed to Secretary, Federal Communications Commission, Washington, DC 20554. The date on which the publication is received by the Secretary of the Commission (or the Mail Room where submitted by mail) is considered the official filing date.

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the transmittal letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA, at the address set forth in §1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked reserved. Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the issuing carrier must send a copy of the transmittal letter with two copies of the proposed tariff pages and all attachments, including the supporting information specified in §61.38 or §61.49, as appropriate, to the Secretary, Federal Communications Commission. In addition, the issuing carrier must send a copy of the publication, supporting information specified in §61.38 or §61.49, as appropriate, and transmittal letter to the commercial contractor (at its office on Commission premises), and to the Chief, Pricing Policy Division. The latter should be clearly labeled as the “Public Reference Copy.” The copies of supporting information required here are in addition to those required by §61.38(c). The issuing carrier must file the copies required by this paragraph so they will be received on the same date as the filings in paragraph (a).

[55 FR 19173, May 8, 1990, as amended at 64 FR 46588, 46593, Aug. 26, 1999; 67 FR 13228, Mar. 21, 2002]

§ 61.33 Letters of transmittal.

(a) Except as specified in §61.32(b), all publications filed on paper with the Commission must be numbered consecutively by the issuing carrier beginning with Number 1, and must be accompanied by a letter of transmittal, A4 (21 cm×29.7 cm) or 8 1/2 by 11 inches (21.6 cm×27.9 cm) in size. All letters of transmittal must

- (1) Concisely explain the nature and purpose of the filing;
- (2) Specify whether supporting information under §61.38 is required;
- (3) State whether copies have been delivered to the Commercial Contractor and the Chief, Pricing Policy Division.
- (4) Contain a statement indicating the date and method of filing of the original of the transmittal letter as required by §61.32(b), and the date and method of filing the copies as required by §61.32 (a) and (c); and
- (5) Include the FCC Registration Number (FRN) of the carrier(s) on whose behalf the letter is submitted. See part 1, subpart W of this chapter.

(b) In addition to the requirements set forth in paragraph (a) of this section, any local exchange carrier choosing to file an Intercarrier compensation Tariff under §61.39 must include in the transmittal:

- (1) A summary of the filing's basic rates, terms and conditions;
- (2) A statement concerning whether any prior Commission facility authorization necessary to the implementation of the tariff has been obtained; and
- (3) A statement that the filing is made pursuant to §61.39.

(c) In addition to the requirements set forth in paragraph (a) of this section, any carrier filing a price cap tariff must include in the letter of transmittal a statement that the filing is made pursuant to §61.49.

(d) Tariffs filed pursuant to section 204(a)(3) of the Communications Act shall display prominently in the upper right hand corner of the letter of transmittal a statement that the filing is made pursuant to that section and whether it is being filed on 7- or 15-days' notice.

(e) In addition to the requirements set forth in paragraph (a) of this section, any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal, the name, room number, street address, telephone number, and facsimile number of the individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under §1.773(a)(4) of this chapter.

(f) In addition to the requirements set forth in paragraphs (a), (b), and (c) of this section, the letter of

transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication, and may not be requested in the transmittal letter.

(g) The letter of transmittal must be substantially in the following format:

(Exact name of carrier in full) (Post Office Address) (Date) Transmittal No.

Secretary, Federal Communications Commission; Washington, DC 20554

Attention: Wireline Competition Bureau

The accompanying tariff (or other publication) issued by ____, and bearing FCC No. ____, effective ____, 20 __, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required.)

(Name of issuing officer or agent) (Title) _____

(h)(1) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

(2) [Reserved]

Note to §61.33:

If a receipt for accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

[55 FR 19173, May 8, 1990, as amended by 56 FR 55239, Oct. 25, 1991; 58 FR 17530, Apr. 5, 1993; 58 FR 44906, Aug. 25, 1993; 62 FR 5777, Feb. 7, 1997; 64 FR 46588, 46593, Aug. 26, 1999; 66 FR 47896, Sept. 14, 2001; 67 FR 13228, Mar. 21, 2002]

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) *Scope.* This section applies to dominant carriers whose gross annual revenues exceed \$500,000 for the most recent 12 month period of operations or are estimated to exceed \$500,000 for a representative 12 month period. Local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in §69.602 of this chapter may submit Intercarrier Compensation Tariff filings for that study area pursuant to either this section or §61.39. However, the Commission may require any carrier to submit such information as may be necessary for a review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in §61.42 (d), (e), and (g).

(b) *Explanation and data supporting either changes or new tariff offerings.* The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must

include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service study for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period;

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (ii) above.

(2) For a tariff filing offering a new service, the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in paragraph (b)(2)(i) of this section.

(3) [Reserved]

(4) For a tariff that introduces a system of density pricing zones, as described in §69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia*, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interoffice traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(c) *Working papers and statistical data.* (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Pricing Policy Division must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in §1.363 of the Commission's Rules.

(d) *Form and content of additional material to be submitted with certain rate increases.* In the circumstances set out in paragraphs (d)(1) and (2) of this section, the filing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate

increase. The carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more than \$1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or tariffed item within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from that service or tariffed item, and

(B) At least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(2) Rate increases affecting more than one service or tariffed item.

(i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more than \$1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A general rate increase in more than one service or tariffed item occurring at one time, or successive general rate increases in the same services or tariffed items occurring within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from those services or tariffed items, and

(B) At least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

(g) On each page of cost support material submitted pursuant to this section, the carrier shall indicate the transmittal number under which that page was submitted.

[49 FR 40869, Oct. 18, 1984, as amended at 53 FR 36289, Sept. 19, 1988; 54 FR 19841, May 8, 1989; 55 FR 42382, Oct. 19, 1990; 56 FR 55239, Oct. 25, 1991; 57 FR 54330, Nov. 18, 1992; 58 FR 36147, July 6, 1993; 58 FR 48762, Sept. 17, 1993; 64 FR 46588, 46593, Aug. 26, 1999; 67 FR 13228, Mar. 21, 2002]

Effective Date Note: At 69 FR 25336, May 6, 2004, paragraph (b) (4) of §61.38 was removed. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 61.39 Optional supporting information to be submitted with letters of transmittal for Intercarrier Compensation Tariff filings for access and reciprocal compensation service effective on or after April 1, 1989, by local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in §69.602.

(a) *Scope.* This section provides for an optional method of filing for any local exchange carrier that is described as subset 3 carrier in §69.602, which elects to issue its own Intercarrier Compensation Tariff for a period commencing on or after April 1, 1989, and which serves 50,000 or fewer access lines in a study area as determined under §36.611(a)(8) of this chapter. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings of local exchange carriers subject to price cap regulation.

(b) *Explanation and data supporting tariff changes.* The material to be submitted to either a tariff change or a new tariff which affects rates or charges must include an explanation of the filing in the transmittal as required by §61.33. The basis for ratemaking must comply with the following requirements. Except as provided in paragraph (b)(5) of this section, it is not necessary to submit this supporting data at the time of filing. However, the local exchange carrier should be prepared to submit the data promptly upon reasonable request by the Commission or interested parties.

(1) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, a cost of service study for Traffic Sensitive elements for the most recent 12 month period with related demand for the same period.

(ii) For subsequent filings, a cost of service study for Traffic Sensitive elements for the total period since the local exchange carrier's last annual filing, with related demand for the same period.

(2) For a tariff change, the local exchange company that is an average schedule carrier must propose Traffic Sensitive rates based on the following:

(i) For the first period, the local exchange carrier's most recent annual Traffic Sensitive settlement from the National Exchange Carrier Association pool.

(ii) For subsequent filings, an amount calculated to reflect the Traffic Sensitive average schedule pool

settlement the carrier would have received if the carrier had continued to participate, based upon the most recent average schedule formulas approved by the Commission.

(3) For a tariff change, the local exchange carrier that is a cost schedule carrier must propose Common Line rates based on the following:

(i) For the first biennial filing, the common line revenue requirement shall be determined by a cost of service study for the most recent 12-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

where:

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 12-month period; *CCL MOU_b* = carrier common line minutes of use for the most recent 12-month period; *CCL MOU₁* = *CCL MOU_b*; and *CCL MOU₀* = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be determined by a cost of service study for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

Where:

And where:

CCL Rev Req = carrier common line revenue requirement for the most recent 24-month period; *CCL MOU_b* = carrier common line minutes of use for the most recent 24-month period; *CCL MOU₁* = carrier common line minutes of use for the 12-month period; and *CCL MOU₀* = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(4) For a tariff change, the local exchange carrier which is an average schedule carrier must propose common line rates based on the following:

(i) For the first biennial filings, the common line revenue requirement shall be determined by the local exchange carrier's most recent annual Common Line settlement from the National Exchange Carrier Association. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

Where:

And where:

CCL Rev Req = carrier common line settlement for the most recent 12-month period; *CCL MOU_b* = carrier common line minutes of use for the most recent 12-month period; *CCL MOU₁* = *CCL MOU_b*; and *CCL MOU₀* = carrier common line minutes of use for the 12-month period proceeding the most recent 12-month period.

(ii) For subsequent biennial filings, the common line revenue requirement shall be an amount calculated to reflect the average schedule pool settlements the carrier would have received if the carrier had continued to participate in the carrier common line pool, based upon the average schedule Common Line formulas developed by the National Exchange Carrier Association for the most recent 24-month period. Subscriber line charges shall be based on cost and demand data for the same period. Carrier common line rates shall be determined by the following formula:

Where:

And where:

CCL Rev Req = carrier common line settlement for the most recent 24-month period; *CCL MOU_b* = carrier common line minutes of use for the most recent 24-month period; *CCL MOU₁* = carrier common line minutes of use for the most recent 12-month period; and *CCL MOU₀* = carrier common line minutes of use for the 12-month period preceding the most recent 12-month period.

(5) For End User Common Line charges included in a tariff pursuant to this Section, the local exchange carrier must provide supporting information for the two-year historical period with its letter of transmittal in accordance with §61.38.

(c) *Maximum allowable rate of return.* Local exchange carriers filing tariffs under this section are not required to comply with §§65.700 through 65.701, inclusive, of the Commission's Rules, except with respect to periods during which tariffs were not subject to this section. The Commission may require any carrier to submit such information if it deems it necessary to monitor the carrier's earnings. However, rates must be calculated based on the local exchange carrier's prescribed rate of return applicable to the period during which the rates are effective.

(d) Rates for a new service that is the same as that offered by a price cap regulated local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rates established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:

(1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap regulated local exchange carrier; and

(2) Data to establish compliance with this subsection that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange carrier. Compliance may be shown

through submission of applicable tariff pages of the adjacent carrier; a showing that the serving areas are adjacent; any necessary explanations and work sheets.

(e) Average schedule companies filing pursuant to this section shall retain their status as average schedule companies.

(f) On each page of cost support material submitted pursuant to this section, the carrier shall indicate the transmittal number under which that page was submitted.

[52 FR 26682, July 16, 1987, as amended at 53 FR 36289, Sept. 19, 1988; 55 FR 42382, Oct. 19, 1990; 58 FR 36147, July 6, 1993; 62 FR 31004, June 6, 1997; 64 FR 46588, Aug. 26, 1999]

§ 61.40 Private line rate structure guidelines.

(a) The Commission uses a variety of tools to determine whether a carrier's private line tariffs are just, reasonable, and nondiscriminatory. The carrier's burden of cost justification can be reduced when its private line rate structures comply with the following five guidelines.

- (1) Rate structures for the same or comparable services should be integrated;
- (2) Rate structures for the same or comparable services should be consistent with one another;
- (3) Rate elements should be selected to reflect market demand, pricing convenience for the carrier and customers, and cost characteristics; a rate element which appears separately in one rate structure should appear separately in all other rate structures;
- (4) Rate elements should be consistently defined with respect to underlying service functions and should be consistently employed through all rate structures; and
- (5) Rate structures should be simple and easy to understand.

(b) The guidelines do not preclude a carrier, in a given case when a private line tariff does not comply with these guidelines, from justifying its departure from the guidelines and showing that its tariff is just, reasonable, and nondiscriminatory.

§ 61.41 Price cap requirements generally.

(a) Sections 61.42 through 61.49 shall apply as follows:

- (1) [Reserved]
- (2) To such local exchange carriers as specified by Commission order, and to all local exchange carriers, other than average schedule companies, that are affiliated with such carriers; and
- (3) On an elective basis, to local exchange carriers, other than those specified in paragraph (a)(2) of

this section, that are neither participants in any Association tariff, nor affiliated with any such participants, except that affiliation with average schedule companies shall not bar a carrier from electing price cap regulation provided the carrier is otherwise eligible.

(b) If a telephone company, or any one of a group of affiliated telephone companies, files a price cap tariff in one study area, that telephone company and its affiliates, except its average schedule affiliates, must file price cap tariffs in all their study areas.

(c) Except as provided in paragraph (e) of this section, the following rules in this paragraph (c) apply to telephone companies subject to price cap regulation, as that term is defined in §61.3(ee), which are involved in mergers, acquisitions, or similar transactions.

(1) Any telephone company subject to price cap regulation that is a party to a merger, acquisition, or similar transaction shall continue to be subject to price cap regulation notwithstanding such transaction.

(2) Where a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that is not subject to price cap regulation, the latter telephone company shall become subject to price cap regulation no later than one year following the effective date of such merger, acquisition, or similar transaction and shall accordingly file price cap tariffs to be effective no later than that date in accordance with the applicable provisions of this part 61.

(3) Notwithstanding the provisions of §61.41(c)(2), when a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that qualifies as an average schedule company, the latter company may retain its average schedule status or become subject to price cap regulation in accordance with §69.3(i)(3) of this chapter and the requirements referenced in that section.

(d) Except as provided in paragraph (e) of this section, local exchange carriers that become subject to price cap regulation as that term is defined in §61.3(ee) shall not be eligible to withdraw from such regulation.

(e) Notwithstanding the requirements of paragraphs (c) and (d) of this section, a telephone company subject to rate-of-return regulation may return lines acquired from a telephone company subject to price cap regulation to rate-of-return regulation, provided that the acquired lines will not be subject to average schedule settlements, and provided further that the telephone company subject to rate-of-return regulation may not for five years elect price cap regulation for itself, or by any means cause the acquired lines to become subject to price cap regulation.

[55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990, as amended at 56 FR 55239, Oct. 25, 1991; 64 FR 46589, Aug. 26, 1999; 65 FR 38695, June 21, 2000; 65 FR 57741, Sept. 26, 2000; 69 FR 25336, May 6, 2004]

Effective Date Note: At 69 FR 25336, May 6, 2004, §61.41 was amended by revising

paragraphs (c) introductory text and (d) and adding a new paragraph (e). These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 61.42 Price cap baskets and service categories.

(a)(c) [Reserved]

(d) Each local exchange carrier subject to price cap regulation shall establish baskets of services as follows:

(1) A basket for the common line, marketing, and certain residual interconnection charge interstate access elements as described in §§69.115, 69.152, 69.153, 69.154, 69.155, 69.156, and 69.157 of this chapter. For purposes of §§61.41 through 61.49, this basket shall be referred to as the CMT basket.

(2) A basket for interoffice traffic sensitive switched elements. For purposes of §§61.41 through 61.49 of this chapter, this basket shall be referred to as the traffic-sensitive basket.

(3) A basket for interoffice trunking services as described in §§69.110, 69.111, 69.112, 69.125(b), 69.129, and 69.155 of this chapter. For purposes of §§61.41 through 61.49, this basket shall be referred to as the trunking basket.

(4)(i) To the extent that a local exchange carrier specified in §61.41(a) (2) or (3) offers interoffice interexchange services that are not classified as access or reciprocal compensation services for the purpose of part 69 of this chapter, such exchange carrier shall establish a fourth basket for such services. For purposes of §§61.41 through 61.49 of this chapter, this basket shall be referred to as the interexchange basket.

(ii) If a price cap carrier has implemented interLATA and intraLATA toll dialing parity everywhere it provides local exchange services at the holding company level, that price cap carrier may file a tariff revision to remove corridor and interstate intraLATA toll services from its interexchange basket.

(5) A basket for special access services as described in §69.114 of this chapter.

(e)(1) The traffic sensitive switched basket shall contain such services as the Commission shall permit or require, including the following service categories:

(i) Switching as described in §69.106(f) of this chapter;

(ii) Information, as described in §69.109 of this chapter;

(iii) Data base access services;

(iv) Billing name and address, as described in §69.128 of this chapter;

- (v) Switching trunk ports, as described in §69.106(f)(1) of this chapter; and
 - (vi) Signalling transfer point port termination, as described in §69.125(c) of this chapter.
- (2) The trunking basket shall contain such switched transport as the Commission shall permit or require, including the following service categories and subcategories:
- (i) Voice grade entrance facilities, voice grade direct-trunked transport, voice grade dedicated signalling transport,
 - (ii) High capacity flat-rated transport, including the following service subcategories:
 - (A) DS1 entrance facilities, DS1 direct-trunked transport, DS1 dedicated signalling transport, and
 - (B) DS3 entrance facilities, DS3 direct-trunked transport, DS3 dedicated signalling transport.
 - (iii) Tandem-switched transport, as described in §69.111 of this chapter; and
 - (iv) Signalling for tandem switching, as described in §69.129 of this chapter.
- (3) The special access basket shall contain special access services as the Commission shall permit or require, including the following service categories and subcategories:
- (i) Voice grade special access, WATS special access, metallic special access, and telegraph special access services;
 - (ii) Audio and video services;
 - (iii) High capacity special access, and DDS services, including the following service subcategories:
 - (A) DS1 special access services; and
 - (B) DS3 special access services;
 - (iv) Wideband data and wideband analog services.
- (f) Each local exchange carrier subject to price cap regulation shall exclude from its price cap baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.
- (g) New services, other than those within the scope of paragraph (f) of this section, must be included in the affected basket at the first annual price cap tariff filing following completion of the base period in which they are introduced. To the extent that such new services are permitted or required to be included in new or existing service categories within the assigned basket, they shall be so included at the first annual price cap tariff filing following completion of the base period in which they are

introduced.

[54 FR 19842, May 8, 1989, as amended at 55 FR 42382, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990; 56 FR 5956, Feb. 14, 1991; 56 FR 55239, Oct. 25, 1991; 57 FR 54718, Nov. 20, 1992; 58 FR 7868, Feb. 10, 1993; 58 FR 29552, May 21, 1993; 58 FR 31914, June 7, 1993; 58 FR 36145, July 6, 1993; 59 FR 10301, Mar. 4, 1994; 59 FR 32930, June 27, 1994; 60 FR 4569, Jan. 24, 1995; 60 FR 13639, Mar. 14, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 31930, June 11, 1997; 64 FR 46589, Aug. 26, 1999; 64 FR 51265, Sept. 22, 1999; 65 FR 38695, June 21, 2000]

§ 61.43 Annual price cap filings required.

Carriers subject to price cap regulation shall submit annual price cap tariff filings that propose rates for the upcoming tariff year, that make appropriate adjustments to their PCI, API, and SBI values pursuant to §§61.45 through 61.47, and that incorporate new services into the PCI, API, or SBI calculations pursuant to §§61.45(g), 61.46(b), and 61.47 (b) and (c). Carriers may propose rate, PCI, or other tariff changes more often than annually, consistent with the requirements of §61.59.

[64 FR 46589, Aug. 26, 1999]

§ 61.44 [Reserved]

§ 61.45 Adjustments to the PCI for Local Exchange Carriers.

(a) Local exchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year exogenous cost changes.

(b)(1)(i) Adjustments to local exchange carrier PCIs, in those carriers' annual inter-carrier compensation tariff filings, the traffic sensitive basket described in §61.42(d)(2), the trunking basket described in §61.42(d)(3), the special access basket described in §61.42(d)(5) and the Interexchange Basket described in §61.42(d)(4)(i), shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w [GDP - PI - X] + Z/R].$$
$$PCI_{t-1} = PCI_{t-1} [1 + w [GDP - PI - X] + Z/R]$$

Where the terms in the equation are described:

GDP PI = For annual filings only, the percentage change in the GDP PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year. For all other filings, the value is zero. X = For the CMT, traffic sensitive, and trunking baskets, for annual filings only, the factor is set at the level prescribed in paragraphs (b)(1)(ii) and (iii) of this section. For the interexchange basket, for annual filings only, the factor is set at the level prescribed in paragraph (b)(1)(v) of this section. For the special access basket, for annual filings only, the factor is set at the level prescribed in paragraph (b)(1)(iv) of this section. For all other filings, the value is zero. g = For annual filings for the CMT basket only, the ratio of minutes of use per access

line during the base period, to minutes of use per access line during the previous base period, all minus 1. Z = The dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1} , measured at base period level of operations. Targeted Reduction = the actual possible dollar value of the (GDP PI X) reductions that will be targeted to the ATS Charge pursuant to §61.45(i)(3). The reductions calculated by applying the (GDP PI X) portion of the formula to the CCL element within the CMT basket will contain the g component, as defined above. R = Base period quantities for each rate element I , multiplied by the price for each rate element I at the time the PCI was updated to PCI_{t-1} . $w = R + Z$, all divided by R (used for the traffic sensitive, trunking, and special access baskets). $wix = R$ (access rate in effect at the time the PCI was updated to PCI_{t-1} * base period demand) + Z , all divided by R . PCI_t = The new PCI value. PCI_{t-1} = the immediately preceding PCI value.

(ii) The X value applicable to the baskets specified in §§61.42(d)(1), (d)(2), and (d)(3), shall be 6.5%, to the extent necessary to reduce a tariff entity's ATS charge to its Target Rate as set forth in §61.3(qq). Once an price cap local exchange carrier tariff entity's ATS Charge is equal to the Target Rate as set forth in §61.3(qq) for the first time (the former NYNEX telephone companies may be treated as a separate tariff entity), then, except as provided in paragraph (b)(1)(iii) of this section, X is equal to GDP PI and no further reductions will be mandated (*i.e.*, if applying the full X-factor reduction for a given year would reduce the ATS charge below the Target Rate as set forth in §61.3 (qq), the amount of X-factor reduction applied that year will be the amount necessary to reach the Target Rate as set forth in §61.3 (qq)). A filing entity does not reach the Target Rate as set forth in §61.3(qq) in any year in which it exercises an exogenous adjustment pursuant to §61.45(d)(vii). For companies with separate tariff entities under a single price cap, the following rules shall apply:

(A) Targeting amounts as defined in §61.45(i)(1)(i) shall be identified separately, using the revenue for each of the tariff entities under the cap.

(B) Each tariff entity shall only be required to use the amount of targeting necessary to get to the Target Rate as set forth in §61.3 (qq).

(iii)(A) Except as provided in paragraph (b)(1)(iii)(B) of this section, once the Tariff Entity's Target Rate as set forth in §61.3 (qq) is achieved, the X-factor for the CMT basket will equal GDP PI as long as GDP PI is less than or equal to 6.5% and greater than 0%. If GDP PI is greater than 6.5%, and an entity has eliminated its CCL and multi-line business PICCs charges, the X-factor for the CMT basket will equal 6.5%, and all End User Common Line charges, rates and nominal caps, will be increased by the difference between GDP PI and the 6.5% X-factor. If GDP PI is less than 0, the X-factor for the CMT basket will be 0.

(B) For tariff filing entities with a Target Rate of \$0.0095, or for the portion of a filing entity consolidated pursuant to §61.48(o) that, prior to such consolidation, had a Target Rate of \$0.0095, in which the ATS charge has achieved the Target Rate but in which the carrier common line (CCL) charge has not been eliminated, the X-factor for the CMT basket will be 6.5% until the earlier of June 30, 2004, or until CCL charges are eliminated pursuant to paragraph (i)(4) of this section. Thereafter, in any filing entity in which a CCL charge remains after July 1, 2004, the X-factor for the CMT basket will be determined pursuant to paragraph (b)(1)(iii)(A) of this section as if CCL charges were

eliminated.

(iv) For the special access basket specified in §61.42(d)(5), the value of X shall be 3.0% for the 2000 annual filing. The value of X shall be 6.5% for the 2001, 2002 and 2003 annual filings. Starting in the 2004 annual filing, X shall be equal to GDP-PI for the special access basket.

(v) For the interexchange basket specified in §61.42(d)(4), the value of X shall be 3.0% for all annual filings.

(b)(2) Adjustments to price cap local exchange carrier PCIs and average price cap CMT revenue per line, in tariff filings other than the annual intercarrier compensation tariff filing, for the CMT basket described in §61.42(d)(1), the traffic sensitive basket described in §61.42(d)(2), the trunking basket described in §61.42(d)(3), the interexchange basket described in §61.42(d)(4), and the special access basket described in §61.42(d)(5), shall be made pursuant to the formulas set forth in paragraph (b)(1)(i) of this section, except that the $w(\text{GDP PI X})$ component of those PCI formulas shall not be employed.

(c) Effective July 1, 2000, the prices of the CMT basket rate elements, excluding special access surcharges under §69.115 of this chapter and line ports in excess of basic under §69.157 of this chapter, shall be set based upon Average Price Cap CMT Revenue per Line month.

(d) The exogenous cost changes represented by the term Z in the formula detailed in paragraph (b)(1)(i) of this section shall be limited to those cost changes that the Commission shall permit or require by rule, rule waiver, or declaratory ruling.

(1) Subject to further order of the Commission, those exogenous changes shall include cost changes caused by:

(i) The completion of the amortization of depreciation reserve deficiencies;

(ii) Such changes in the Uniform System of Accounts, including changes in the Uniform System of Accounts requirements made pursuant to §32.16 of this chapter, as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling;

(iii) Changes in the Separations Manual;

(iv) [Reserved]

(v) The reallocation of investment from regulated to non-regulated activities pursuant to §64.901 of this chapter;

(vi) Such tax law changes and other extraordinary cost changes as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling;

(vii) Retargeting the PCI to the level specified by the Commission for carriers whose base year

earnings are below the level of the lower adjustment mark, subject to the limitation in §69.731 of this chapter. The allocation of LFAM amounts will be allocated pursuant to §61.45(d)(3). This section shall not be applicable to tariff filings during the tariff year beginning July 1, 2000, but is applicable in subsequent years;

(viii) Inside wire amortizations;

(ix) The completion of amortization of equal access expenses.

(2) Local exchange carriers specified in §§61.41(a)(2) or (a)(3) shall, in their annual tariff filing, recognize all exogenous cost changes attributable to modifications during the coming tariff year in their Subscriber Plant Factor and the Dial Equipment Minutes factor, and completions of inside wire amortizations and reserve deficiency amortizations.

(3) Exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services as a group. Total exogenous cost changes thus attributed to price cap services shall be recovered from services other than those used to calculate the ATS charge.

(e) [Reserved]

(f) The exogenous costs caused by new services subject to price cap regulation must be included in the appropriate PCI calculations under paragraphs (b) and (c) of this section beginning at the first annual price cap tariff filing following completion of the base period in which such services are introduced.

(g) In the event that a price cap tariff becomes effective, which tariff results in an API value (calculated pursuant to §61.46) that exceeds the currently applicable PCI value, the PCI value shall be adjusted upward to equal the API value.

(h) [Reserved]

(i)(1)(i) Price cap local exchange carriers that are recovering revenues through rates pursuant to §§69.106, 69.108, 69.109, 69.110, 69.111, 69.112, 69.113, 69.118, 69.123, 69.124, 69.125, 69.129, or §69.155 of this chapter shall target, to the extent necessary to reduce the ATS Charge to the Target Rate as set forth in §61.3 (qq) for the first time, any PCI reductions associated with the dollar impact of application of the (GDP PI X) portion of the formula in §61.45(b)(1)(i) to the traffic sensitive and trunking baskets. In order to calculate the actual dollars to transfer to the trunking and traffic sensitive baskets, carriers will first determine the Targeted Revenue Differential that will be transferred to the trunking and traffic sensitive baskets to reduce the ATS Charge to the Target Rate as set forth in §61.3(qq). The Targeted Revenue Differential shall be applied only to the trunking and traffic sensitive baskets to the extent necessary to reduce the ATS charge to the Target Rate as set forth in §61.3 (qq), and shall not be applied to reduce the PCIs in any other basket or to reduce Average Price Cap CMT Revenue per Line month, except as provided in §61.45(i)(4).

(ii) For the purposes of §61.45(i)(1)(i), Targeted Revenue Differential will be determined by adding

together the following amounts:

(A) $R * (GDP \text{ PI} - X)$ for the traffic sensitive basket, trunking basket, and the CMT basket excluding CCL revenues; and

(B) $CCL \text{ Revenues} * [(GDP \text{ PI} X - (g/2)) / (1 + (g/2))]$

Where g is defined in §61.45(b)(1)(i).

(2) Until a tariff entity's ATS Charge equals the Target Rate as set forth in §61.3 (qq) for the first time, the Targeted Revenue Differential will be targeted to reduce the following rates for that tariff filing entity, in order of priority:

(i) To the residual per minute Transport Interconnection Charge, until that rate is \$0.00; then

(ii) To the Information Surcharge, until that rate is \$0.00; then

(iii) To the other Switching charges and Switched Transport charges until the tariff entity's ATS Rate equals the Target Rate as set forth in §61.3(qq) for the first time. In making these reductions, the reductions to Switching rates as a percentage of total X-factor reductions must be greater than or equal to the percentage proportion of Switching revenues to the total sum of revenues for Switching, Switching Trunk Ports, Signalling Transfer Point Port Termination, Switched Direct Trunked Transport, Signalling for Switched Direct Trunked Transport, Entrance Facilities for switched traffic, Tandem Switched Transport, and Signalling for Tandem Switching (*i.e.*, Switching gets at least its proportionate share of reductions).

(3) After a price cap local exchange carrier reaches the Target Rate as set forth in §61.3(qq), the ATS Rate will be recalculated each subsequent Annual Filing. This process will identify the new ATS Charge for the new base period level. Due to change in base period demand and inclusion of new services for that annual filing, the absolute level of a tariff entity's ATS Charge may change. The resulting new ATS Charge level will be what that tariff entity will be measured against during that base period. For example, if a company whose target is \$0.0055 reached the Target Rate during the 2000 annual filing, that level may change to \$0.0058 in the 2001 annual filing due to change in demand and inclusion of new services. Therefore, it will be the \$0.0058 average rate that the tariff entity will be measured against for all non-annual filings. Likewise, if that same company was at the Target Rate during the 2000 filing, that level may change to \$0.0053 average rate in the 2001 annual filing due to change in demand and inclusion of new services. In that case, it will be at the \$0.0053 average rate that the tariff entity will be measured.

(4) A company electing a \$0.0095 Target Rate will, in the tariff year it reaches the Target Rate, apply any Targeted Revenue Differential remaining after reaching the Target Rate to reduce Average Price Cap CMT Revenue per Line month until the CCL charge is eliminated. In subsequent years, until the earlier of June 30, 2004 or when the CCL charge is eliminated, tariff filing entities with a Target Rate of \$0.0095, or the portion of a filing entity consolidated pursuant to §61.48(o) that, prior to such consolidation, had a Target Rate of \$0.0095, will reduce Average Price Cap CMT Revenue per Line

month according to the following method:

(i) Filing entity calculates the maximum allowable carrier common line revenue, as defined in §61.46(d)(1), that would be permitted in the absence of further adjustment pursuant to this paragraph;

(ii) Filing entity identifies maximum amount of dollars available to reduce Average Price Cap CMT Revenue per Line month by the following:

(CMT revenue in a \$0.0095 Area CCL revenue in a \$0.0095 Area) * (GDP PI X) + (CCL Revenue in a \$0.0095 Area) * [(GDP PI X) (g/2)]/[1+(g/2)]

(iii) The Average Price Cap CMT Revenue per Line month shall then be reduced by the lesser of the amount described in paragraph (i)(4)(i) of this section and the amount described in paragraph (i)(4)(ii) of this section, divided by base period Switched Access End User Common Line Charge lines.

[65 FR 38696, June 21, 2000; 65 FR 57741, Sept. 26, 2000]

§ 61.46 Adjustments to the API.

(a) Except as provided in paragraphs (d) and (e) of this section, in connection with any price cap tariff filing proposing rate changes, the carrier must calculate an API for each affected basket pursuant to the following methodology:

$API_t = API_{t-1} [\sum_i v_i (P_t/P_{t-1})^i]$ Where: API_t = the proposed API value, API_{t-1} = the existing API value, P_t = the proposed price for rate element i , P_{t-1} = the existing price for rate element i , and v_i = the current estimated revenue weight for rate element i , calculated as the ratio of the base period demand for the rate element i priced at the existing rate, to the base period demand for the entire basket of services priced at existing rates.

(b) New services subject to price cap regulation must be included in the appropriate API calculations under paragraph (a) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced. This index adjustment requires that the demand for the new service during the base period must be included in determining the weights used in calculating the API.

(c) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the API pursuant to the general methodology described in paragraph (a) of this section. This adjustment requires the conversion of existing rates into rates of equivalent value under the proposed structure, and then the comparison of the existing rates that have been converted to reflect restructuring to the proposed restructured rates. This calculation may require use of carrier data and estimation techniques to assign customers of the preexisting service to those services (including the new restructured service) that will remain or become available after restructuring.

(d) The maximum allowable carrier common line (CCL) revenue shall be computed pursuant to the

following methodology:

$CCL = CMT - EUCL - \text{Interstate Access Universal Service Support Mechanism Per Line} - PICC$

Where:

CMT = Price Cap CMT Revenue as defined in §61.3(cc). EUCL = Maximum allowable EUCL rates established pursuant to §69.152 of this chapter multiplied by base period lines. Interstate Access Universal Service Support Per Line = the amount as determined by the Administrator pursuant to §54.807 of this chapter times the number of base period lines for each customer class and zone receiving Interstate Access Universal Service support pursuant to part 54, subpart J. PICC = Maximum allowable PICC rates established pursuant to §69.153 of this chapter multiplied by base period lines.

(e) In no case shall a price cap local exchange carrier include data associated with services offered pursuant to contract tariff in the calculations required by this section.

[65 FR 38698, June 21, 2000; 65 FR 57741, 57742, Sept. 26, 2000]

§ 61.47 Adjustments to the SBI; pricing bands.

(a) In connection with any price cap tariff filing proposing changes in the rates of services in service categories, subcategories, or density zones, the carrier must calculate an SBI value for each affected service category, subcategory, or density zone pursuant to the following methodology:

$$SBI_t = SBI_{t-1} [\sum_i v_i (P_t/P_{t-1})^i]$$

where

SBI_t = the proposed SBI value, SBI_{t-1} = the existing SBI value, P_t = the proposed price for rate element i, P_{t-1} = the existing price for rate element i, and v_i = the current estimated revenue weight for rate element i, calculated as the ratio of the base period demand for the rate element i priced at the existing rate, to the base period demand for the entire group of rate elements comprising the service category priced at existing rates.

(b) New services that are added to existing service categories or subcategories must be included in the appropriate SBI calculations under paragraph (a) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced. This index adjustment requires that the demand for the new service during the base period must be included in determining the weights used in calculating the SBI.

(c) In the event that the introduction of a new service requires the creation of a new service category or subcategory, a new SBI must be established for that service category or subcategory beginning at the first annual price cap tariff filing following completion of the base period in which the new service is introduced. The new SBI should be initialized at a value of 100, corresponding to the

service category or subcategory rates in effect the last day of the base period, and thereafter should be adjusted as provided in paragraph (a) of this section.

(d) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the affected SBI pursuant to the general methodology described in paragraph (a) of this section. This adjustment requires the conversion of existing rates in the rate element group into rates of equivalent value under the proposed structure, and then the comparison of the existing rates that have been converted to reflect restructuring to the proposed restructured rates. This calculation may require use of carrier data and estimation techniques to assign customers of the preexisting service to those services (including the new restructured service) that will remain or become available after restructuring.

(e) Pricing bands shall be established each tariff year for each service category and subcategory within a basket. Each band shall limit the pricing flexibility of the service category, subcategory, as reflected in the SBI, to an annual increase of a specified percent listed in this paragraph, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding tariff year. For local exchange carriers subject to price cap regulation as that term is defined in §61.3(ee), there shall be no lower pricing band for any service category or subcategory.

(1) Five percent:

(i) Switching (traffic sensitive basket)

(ii) Information (traffic sensitive basket)

(iii) Database Access Services (traffic sensitive basket)

(iv) 800 Database Vertical Services subservice (traffic sensitive basket)

(v) Billing Name and Address (traffic sensitive basket)

(vi) Switching Trunk Ports (traffic sensitive basket)

(vii) Signalling Transfer Point Port Termination (traffic sensitive basket)

(viii) Voice Grade (trunking and special access baskets)

(ix) Audio/Video (special access basket)

(x) Total High Capacity (trunking and special access baskets)

(xi) DS1 Subservice (trunking and special access baskets)

(xii) DS3 Subservice (trunking and special access baskets)

(xiii) Wideband (special access basket)

(2) Two percent:

(i) Tandem-Switched Transport (trunking basket)

(ii) Signalling for Tandem Switching (trunking basket)

(f) A local exchange carrier subject to price cap regulation may establish density zones pursuant to the requirements set forth in §69.123 of this chapter, for any service in the trunking and special access baskets, other than the interconnection charge set forth in §69.124 of this chapter. The pricing flexibility of each zone shall be limited to an annual increase of 15 percent, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding tariff year. There shall be no lower pricing band for any density zone.

(g)(i)(l) [Reserved]

(2) Effective January 1, 1998, notwithstanding the requirements of paragraph (a) of this section, if a local exchange carrier is recovering interconnection charge revenues through per-minute rates pursuant to §69.155 of this chapter, any reductions to the PCI for the basket designated in §61.42(d)(3) resulting from the application of the provisions of §61.45(b)(1)(i) and from the application of the provisions of §§61.45(i)(1) and 61.45(i)(2) shall be directed to the SBI of the service category designated in §61.42(d)(i).

(3) [Reserved]

(4) Effective January 1, 1998, the SBI reduction required by paragraph (i)(2) of this section shall be determined by dividing the sum of the dollar amount of any PCI reduction required by §§61.45(i)(1) and 61.45(i)(2), by the dollar amount associated with the SBI for the service category designated in §61.42(e)(2)(vi), and multiplying the SBI for the service category designated in §61.42(e)(2)(vi) by one minus the resulting ratio.

(5) Effective July 1, 2000, notwithstanding the requirements of paragraph (a) of this section and subject to the limitations of §61.45(i), if a local exchange carrier is recovering an ATS charge greater than its Target Rate as set forth in §61.3(qq), any reductions to the PCI for the traffic sensitive or trunking baskets designated in §§61.42(d)(2) and 61.42(d)(3) resulting from the application of the provisions of §61.45(b), and the formula in §61.45(b) and from the application of the provisions of §§61.45(i)(1), and 61.45(i)(2) shall be directed to the SBIs of the service categories designated in §§61.42(e)(1) and 61.42(e)(2).

(j) [Reserved]

(k) In no case shall a price cap local exchange carrier include data associated with services offered pursuant to contract tariff in the calculations required by this section.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42384, Oct. 19, 1990; 56 FR 55239, Oct. 25, 1991; 57 FR 54331, Nov. 18, 1992; 58 FR 7868, Feb. 10, 1993; 58 FR 48762, Sept. 17, 1993; 59 FR 10302, Mar. 4, 1994; 59 FR 32930, June 27, 1994; 60 FR 19528, Apr. 19, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 4659, Jan. 31, 1997; 62 FR 31932, June 11, 1997; 62 FR 40460, July 29, 1997; 64 FR 46590, Aug. 26, 1999; 64 FR 51265, Sept. 22, 1999; 65 FR 38698, June 21, 2000; 65 FR 57742, Sept. 26, 2000]

§ 61.48 Transition rules for price cap formula calculations.

(a)(h) [Reserved]

(i) *Transport and Special Access Density Pricing Zone Transition Rules (1) Definitions.* The following definitions apply for purposes of paragraph (i) of this section:

Earlier date is the earlier of the special access zone date and the transport zone date.

Earlier service is special access if the special access zone date precedes the transport zone date, and is transport if the transport zone date precedes the special access zone date.

Later date is the later of the special access zone date and the transport zone date.

Later service is transport if the special access zone date precedes the transport zone date, and is special access if the transport zone date precedes the special access zone date.

Revenue weight of a given group of services included in a zone category is the ratio of base period demand for the given service rate elements included in the category priced at existing rates, to the base period demand for the entire group of rate elements comprising the category priced at existing rates.

Special access zone date is the date on which a local exchange carrier tariff establishing divergent special access rates in different zones, as described in §69.123(c) of this chapter, becomes effective.

Transport zone date is the date on which a local exchange carrier tariff establishing divergent switched transport rates in different zones, as described in §69.123(d) of this chapter, becomes effective.

(2) *Simultaneous Introduction of Special Access and Transport Zones.* Local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to §69.123 of this chapter, and whose special access zone date and transport zone date occur on the same date, shall initially establish density pricing zone SBIs and bands pursuant to the methodology in §§61.47(e) through (f).

(3) *Sequential Introduction of Zones in the Same Tariff Year.* Notwithstanding §§61.47(e) through (f), local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to §69.123 of this chapter, and whose special access zone date and transport zone date occur

on different dates during the same tariff year, shall, on the earlier date, establish density pricing zone SBIs and pricing bands using the methodology described in §§61.47(e) through (f), but applicable to the earlier service only. On the later date, such carriers shall recalculate the SBIs and pricing bands to limit the pricing flexibility of the services included in each density pricing zone category, as reflected in its SBI, as follows:

(i) The upper pricing band shall be a weighted average of the following:

(A) The upper pricing band that applied to the earlier services included in the zone category on the day preceding the later date, weighted by the revenue weight of the earlier services included in the zone category; and

(B) 1.05 times the SBI value for the services included in the zone category on the day preceding the later date, weighted by the revenue weight of the later services included in the zone category.

(ii) [Reserved]

(iii) On the later date, the SBI value for the zone category shall be equal to the SBI value for the category on the day preceding the later date.

(4) *Introduction of Zones in Different Tariff Years.* Notwithstanding §§61.47(e) through (f), those local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to §69.123 of this chapter, and whose special access zone date and transport zone date do not occur within the same tariff year, shall, on the earlier date, establish density pricing zone SBIs and pricing bands using the methodology described in §§61.47(e) through (f), but applicable to the earlier service only.

(i) On the later date, such carriers shall use the methodology set forth in paragraphs (a) through (d) of §61.47 to calculate separate SBIs in each zone for each of the following groups of services:

(A) DS1 special access services;

(B) DS3 special access services;

(C) DS1 entrance facilities, DS1 direct-trunked transport, and DS1 dedicated signalling transport;

(D) DS3 entrance facilities, DS3 direct-trunked transport, and DS3 dedicated signalling transport;

(E) Voice grade entrance facilities, voice grade direct-trunked transport, and voice grade dedicated signalling transport;

(F) Tandem-switched transport; and

(G) Such other special access services as the Commission may designate by order.

(ii) From the later date through the end of the following tariff year, the annual pricing flexibility for each of the sub-indexes specified in paragraph (i)(4)(i) of this section shall be limited to an annual increase of five percent or an annual decrease of fifteen percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the tariff year preceding the tariff year in which the later date occurs.

(iii) On the first day of the second tariff year following the tariff year during which the later date occurs, the local exchange carriers to which this paragraph applies shall establish the separate sub-indexes provided in §61.47(e), and shall set the initial SBIs for those density pricing zone categories that are combined (specified in paragraphs (i)(4)(i)(A), (i)(4)(i)(B), (i)(4)(i)(C), (i)(4)(i)(D), (i)(4)(i)(E), and (i)(4)(i)(G) of this section) by computing the weighted averages of the SBIs that applied to the formerly separate zone categories, weighted by the revenue weights of the respective services included in the zone categories.

(j)(k) [Reserved]

(l) *Average Traffic Sensitive Revenues.* (1) In the July 1, 2000 annual filing, price cap local exchange carriers will make an additional reduction to rates comprising ATS charge, and to associated SBI upper limits and PCIs. This reduction will be calculated to be the amount that would be necessary to achieve a total \$2.1 billion reduction in carrier common line and ATS rates by all price cap local exchange carriers, compared with those rates as they existed on June 30, 2000 using 2000 annual filing base period demand.

(i) The net change in revenue associated with Carrier Common Line Rate elements resulting from:

(A) The removal from access of price cap local exchange carrier contributions to the Federal universal service mechanisms;

(B) Price cap local exchange carrier receipts of interstate access universal service support pursuant to subpart J of part 54;

(C) Changes in End User Common Line Charges and PICC rates;

(D) Changes in Carrier Common Line charges due to GDP PI X targeting for \$0.0095 filing entities.

(ii) Reductions in Average Traffic Sensitive charges resulting from:

(A) Targeting of the application of the (GDP PI X) portion of the formula in §61.45(b), and any applicable g adjustments;

(B) The removal from access of price cap local exchange carrier contributions to the Federal universal service mechanisms;

(C) Additional ATS charge reductions defined in paragraph (2) of this section.

(2) Once the reductions in paragraph (1)(1)(i) and paragraphs (1)(1)(ii)(A) and (1)(1)(ii)(B) of this section are identified, the difference between those reductions and \$2.1 billion is the total amount of additional reductions that would be made to ATS rates of price cap local exchange carriers. This amount will then be restated as the percentage of total price cap local exchange carrier Local Switching revenues as of June 30, 2000 using 2000 annual filing base period demand (June 30 Local Switching revenues) necessary to yield the total amount of additional reductions and taking into account the fact that, if participating, a price cap local exchange carrier would not reduce ATS rates below its Target Rate as set forth in §61.3(qq). Each price cap local exchange carrier then reduces ATS rate elements, and associated SBI upper limits and PCIs, by a dollar amount equivalent to the percentage times the June 30 Local Switching revenues for that filing entity, provided that no price cap local exchange carrier shall be required to reduce its ATS rates below its Target Rate as set forth in §61.3(qq). Each carrier can take its additional reductions against any of the ATS rate elements, provided that at least a proportional share must be taken against Local Switching rates.

(m) *Pooled Local Switching Revenues.* (1) Price cap local exchange carriers are permitted to pool local switching revenues in their CMT basket under one of the following conditions.

(i) Any price cap local exchange carrier that would otherwise have July 1, 2000 price cap reductions as a percentage of Base Period Price Cap Revenues at the holding company level greater than the industry wide total July 1, 2000 price cap revenue reduction as a percentage of Base Period Price Cap Revenues may elect temporarily to pool the amount of the additional reductions above 25% of the Local Switching element revenues necessary to yield that carrier's proportionate share of a total \$2.1 billion reduction in switched access usage rates on July 1, 2000. The basis of the reduction calculation will be R at PCI_{t-1} for the upcoming tariff year. The percentage reductions per line amounts will be calculated as follows: (Total Price Cap Revenue Reduction ÷ Base Period Price Cap Revenues)

Pooled local switching revenue for each filing entity within a holding company that qualifies under this paragraph (i) will continue until such pooled revenues are eliminated under this paragraph. Notwithstanding the provisions of §61.45(b)(1), once the Average Traffic Sensitive (ATS) rate reaches the applicable Target Rate as set forth in §61.3(qq), the Targeted Revenue Differential as defined in §61.45(i) shall be targeted to reducing pooled local switching revenue until the pooled local switching revenue is eliminated. Thereafter, the X-factor for these baskets will be determined in accordance with §61.45(b)(1).

(ii) Price cap local exchange carriers other than the Bell companies and GTE with at least 20% of total holding company lines operated by companies that as of December 31, 1999 were certified to the Commission as rural carriers, may elect to pool up to the following amounts:

(A) For a price cap holding company's predominantly non-rural filing entities (*i.e.*, filing entities within which more than 50% of all lines are operated by telephone companies other than those that as of December 31, 1999 were certified to the Commission as rural telephone companies), the amount of the additional reductions to Average Traffic Sensitive Charge rates as defined in paragraph (1)(2) of this section, to the extent such reductions exceed 25% of the Local Switching element revenues

(measured in terms of June 30, 2000 rates times 1999 base period demand);

(B) For a price cap holding company's predominantly rural filing entities (*i.e.*, filing entities with greater than 50% of lines operated by telephone companies that as of December 31, 1999 were certified to the Commission as rural telephone companies), the amount of the additional reductions to Average Traffic Sensitive Charge rates as defined in paragraph (1)(2) of this section.

(2) Allocation of Pooled Local Switching Revenue to Certain CMT Elements

(i) The pooled local switching revenue for each filing entity is shifted to the CMT basket within price caps. Pooled local switching revenue will not be included in calculations to determine the eligibility for interstate access universal service funding.

(ii) Pooled local switching revenue will be capped on a revenue per line basis.

(iii) Pooled local switching revenue is included in the total revenue for the CMT basket in calculating the X-factor reduction targeted to the traffic sensitive rate elements, and for companies qualified under paragraph (m)(1)(i) of this section, to pooled elements after the Average Traffic Sensitive Charge reaches the target level. For the purpose of targeting X-factor reductions, companies that allocate pooled local switching revenue to other filing entities pursuant to paragraph (m)(2)(vii) of this section shall include pooled local switching revenue in the total revenue of the CMT basket of the filing entity from which the pooled local switching revenue originated.

(iv) Pooled local switching revenue shall be kept separate from CMT revenue in the CMT basket. CMT rate elements for each filing entity shall first be set based on CMT revenue per line without regard to the presence of pooled local switching revenue for each filing entity.

(v) If the rates generated without regard to the presence of pooled local switching revenue for multi-line business PICC and/or multi-line business SLC are below the nominal caps of \$4.31 and \$9.20, respectively, pooled amounts can be added to these rate elements to the extent permitted by the nominal caps.

(vi) Notwithstanding the provisions of §69.152(k) of this chapter, pooled local switching revenue is first added to the multi-line business SLC until the rate equals the nominal cap (\$9.20) or the pooled local switching revenue is fully allocated. If pooled local switching revenue remains after applying amounts to the multi-line business SLC, notwithstanding the provisions of §69.153 of this chapter, the remaining pooled local switching revenue may be added to the multi-line business PICC until the rate equals the nominal cap (\$4.31) or the pooled local switching revenue is fully allocated. Unallocated pooled local switching revenue may still remain. For companies pooling pursuant to paragraph (m)(1)(i) of this section, these unallocated amounts may not be recovered from the CCL charge, the primary residential and single-line business SLC, a non-primary residential SLC, or from CMT elements in any other filing entity.

(vii) For companies pooling pursuant to paragraph (m)(1)(ii) of this section, pooled local switching revenue that can not be allocated to the multi-line business PICC and multi-line business SLC rates

within an individual filing entity may not be recovered from the CCL charge, primary residential and single-line business SLC or residential/single-line business SLC charges, but may be allocated to other filing entities within the holding company, and collected by adding these amounts to the multi-line business PICC and multi-line business SLC rates. The allocation of pooled local switching revenue among filing entities will be re-calculated at each annual filing. In subsequent annual filings, pooled local switching revenue that was allocated to another filing entity will be reallocated to the filing entity from where it originated, to the full extent permitted by the nominal caps of \$9.20 and \$4.31.

(viii) Notwithstanding the provisions of §69.152(k) of this chapter, these unallocated local switching revenues that cannot be recovered fully pursuant to paragraph (m)(2)(vii) of this section are first added to the multi-line business SLC of other filing entities until the resulting rate equals the nominal cap (\$9.20) or the pooled local switching revenue for the holding company is fully allocated. If the pooled local switching revenue can be fully allocated to the multi-line business SLC, the amount is distributed to each filing entity with a rate below the nominal cap (\$9.20) based on its below-cap multi-line business SLC revenue as a percentage of the total holding company's below-cap multi-line business SLC revenue.

(ix) If pooled local switching revenue remains after applying amounts to the multi-line business SLC of all filing entities in the holding company, pooled local switching revenue may be added to the multi-line business PICC of other filing entities. Notwithstanding the provisions of §69.153 of this chapter, the remaining pooled local switching revenue is distributed to each filing entity with a rate below the nominal cap (\$4.31) based on its below-cap multi-line business PICC revenue as a percentage of the total holding company's below-cap multi-line business PICC revenue.

(x) If pooled local switching revenue is added to the multi-line business SLC but not to the multi-line business PICC for a filing entity that qualified to de-average SLCs without regard to pooled local switching revenue, the resulting SLC rates can still be deaveraged. Total pooled local switching revenue is added to the deaveraged zone 1 multi-line business SLC rate until the per line rate in zone 1 equals the rate in zone 2 or until the pooled local switching revenue is fully allocated to the deaveraged multi-line business SLC rate for zone 1. If pooled local switching revenue remains after the rate in zone 1 equals zone 2, the deaveraged rates of zone 1 and zone 2 are increased until the pooled local switching revenue is fully allocated to the deaveraged multi-line business SLC rates of zone 1 and 2 or until those rates reach the zone 3 multi-line business SLC rate level. This process continues until pooled local switching revenue is fully allocated to the zone deaveraged rates.

(n) Establishment of the special access basket, effective July 1, 2000.

(1) On the effective date, the PCI value for the special access basket, as defined in §61.42(d)(5) shall be equal to the PCI for the trunking basket on the day preceding the establishment of the special access basket.

(2) On the effective date, the API value for the special access basket, as defined in §61.42(d)(5) shall be equal to the API for the trunking basket on the day preceding the establishment of the special

access basket.

(3) Service Category, Subcategory, and Density Zone SBIs and Upper Limits.

(i) Interconnection, Tandem Switched Transport, and Signalling Interconnection will retain the SBIs and upper limits and remain in the trunking basket.

(ii) Audio/Video and Wideband will retain the SBIs and upper limits and be moved into the special access basket.

(iii) For Voice Grade, the SBIs and upper limits in both baskets will be equal to the SBIs and upper limits in the existing trunking basket on the day preceding the establishment of the special access basket. Voice Grade density zones in the trunking basket will retain their indices and upper limits. Voice Grade density zones will be initialized in the special access basket when services are first offered in them.

(iv) For High Cap/DDS, DS1, and DS3 category and subcategories, the SBIs and upper limits in both baskets will be equal to the SBIs and upper limits in the existing trunking basket on the day preceding the establishment of the special access basket. SBIs and upper limits for services that are in both combined density zones and either DTT/EF or special access density zones will be calculated by using weighted averages of the indices in the affected zones.

(v) For each DTT/EF-related zone remaining in the trunking basket, the values will be calculated by taking the sum of the products of the DTT/EF revenues times the DTT/EF index (or upper limit) and the DTT/EF-related revenues in the combined zone times the combined index (or upper limit), and dividing by the total DTT/EF-related revenues for that zone.

(vi) For each special access-related zone in the special access basket, the values will be calculated by taking the sum of the products of the special access revenues times the special access index (or upper limit) and the special access-related revenues in the combined zone times the combined index (or upper limit), and dividing by the total special access-related revenues for that zone.

(o) Treatment of acquisitions of exchanges with different ATS Target Rates as set forth in §61.3(qq):

(1) In the event that a price cap local exchange carrier acquires a filing entity or portion thereof from a price cap local exchange carrier after July 1, 2000, and the price cap local exchange carrier did not have a binding and executed contract to purchase that filing entity or portion thereof as of April 1, 2000, those properties retain their pre-existing Target Rates as set forth in §61.3(qq). If those properties are merged into a filing entity with a different Target Rate as set forth in §61.3(qq), the Target Rate as set forth in §61.3(qq) for the merged filing entity will be the weighted average of the Target Rates as set forth in §61.3(qq) for the properties being combined into a single filing entity, with the average weighted by switching minutes. When a property acquired as a result of a contract for purchase executed after April 1, 2000 is merged with \$0.0095 Target Rate properties, the obligation to apply price cap reductions to reduce CCL, pursuant to §61.45(b)(iii) does not apply to the properties purchased under contracts executed after April 1, 2000, but continues to apply to the

other properties.

(2) For sale of properties for which a holding company was, as of April 1, 2000, under a binding and executed contract to purchase but which close after June 30, 2000, but during tariff year 2000, and that are subject to the \$0.0095 Target Rate as set forth in §61.3(qq), the Average Traffic Sensitive Rate charged by the purchaser for that property will be the greater of \$0.0095 or the Average Traffic Sensitive Rate for that property.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42384, Oct. 19, 1990; 56 FR 21617, May 10, 1991; 56 FR 55239, Oct. 25, 1991; 59 FR 10302, Mar. 4, 1994; 60 FR 19528, Apr. 19, 1995; 60 FR 52346, Oct. 6, 1995; 62 FR 31932, June 11, 1997; 64 FR 46590, Aug. 26, 1999; 65 FR 38699, June 21, 2000; 65 FR 57742, 57743, Sept. 26, 2000]

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

- (a) Each price cap tariff filing must be accompanied by supporting materials sufficient to calculate required adjustments to each PCI, API, and SBI pursuant to the methodologies provided in §§61.45, 61.46, and 61.47, as applicable.
- (b) Each price cap tariff filing that proposes rates that are within applicable bands established pursuant to §61.47, and that results in an API value that is equal to or less than the applicable PCI value, must be accompanied by supporting materials sufficient to establish compliance with the applicable bands, and to calculate the necessary adjustment to the affected APIs and SBIs pursuant to §§61.46 and 61.47, respectively.
- (c) Each price cap tariff filing that proposes rates above the applicable band limits established in §61.47 (e) must be accompanied by supporting materials establishing substantial cause for the proposed rates.
- (d) Each price cap tariff filing that proposes rates that will result in an API value that exceeds the applicable PCI value must be accompanied by:
- (1) An explanation of the manner in which all costs have been allocated among baskets; and
 - (2) Within the affected basket, a cost assignment slowing down to the lowest possible level of disaggregation, including a detailed explanation of the reasons for the prices of all rate elements to which costs are not assigned.
- (e) Each price cap tariff filing that proposes restructuring of existing rates must be accompanied by supporting materials sufficient to make the adjustments to each affected API and SBI required by §§61.46(c) and 61.47(d), respectively.
- (f)(1) [Reserved]

(2) Each tariff filing submitted by a price cap LEC that introduces a new loop-based service, as defined in §61.3(pp) of this part including a restructured unbundled basic service element (BSE), as defined in §69.2(mm) of this chapter, that constitutes a new loop-based service that is or will later be included in a basket, must be accompanied by cost data sufficient to establish that the new loop-based service or unbundled BSE will not recover more than a just and reasonable portion of the carrier's overhead costs.

(3) A price cap LEC may submit without cost data any tariff filings that introduce new services, other than loop-based services.

(4) A price cap LEC that has removed its corridor or interstate intraLATA toll services from its interexchange basket pursuant to §61.42(d)(4)(ii), may submit its tariff filings for corridor or interstate intraLATA toll services without cost data.

(g) Each tariff filing submitted by a local exchange carrier subject to price cap regulation that introduces a new loop-based service or a restructured unbundled basic service element (BSE), as defined in §69.2(mm) of this chapter, that is or will later be included in a basket, or that introduces or changes the rates for connection charge sub-elements for expanded interconnection, as defined in §69.121 of this chapter, must also be accompanied by:

(1) The following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new tariff on the traffic and revenues from the service to which the new tariff applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in paragraph (g)(1)(i) of this section.

(2) *Working papers and statistical data.* (i) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff and Pricing Analysis Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (h)(1) of this section, and a clear explanation of how the working papers relate to that information.

(ii) All statistical studies must be submitted and supported in the form prescribed in §1.363 of the Commission's rules.

(h) Each tariff filing submitted by a local exchange carrier subject to price cap regulation that introduces or changes the rates for connection charge subelements for expanded interconnection, as defined in §69.121 of this chapter, must be accompanied by cost data sufficient to establish that such charges will not recover more than a just and reasonable portion of the carrier's overhead costs.

(i) [Reserved]

(j) For a tariff that introduces a system of density pricing zones, as described in §69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, *inter alia*, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.

(k) In accordance with §§61.41 through 61.49, local exchange carriers subject to price cap regulation that elect to file their annual inter-carrier compensation tariff pursuant to section 204(a)(3) of the Communications Act shall submit supporting material for their annual inter-carrier compensation tariffs, absent rate information, 90 days prior to July 1 of each year.

(l) On each page of cost support material submitted pursuant to this section, the carrier shall indicate the transmittal number under which that page was submitted.

[54 FR 19843, May 8, 1989, as amended at 55 FR 42384, Oct. 19, 1990; 56 FR 5956, Feb. 14, 1991; 56 FR 21617, May 10, 1991; 56 FR 33880, July 24, 1991; 57 FR 37730, Aug. 20, 1992; 57 FR 54331, Nov. 18, 1992; 58 FR 17167, Apr. 1, 1993; 58 FR 38536, July 19, 1993; 58 FR 48762, Sept. 17, 1993; 59 FR 10304, Mar. 4, 1994; 62 FR 4659, Jan. 31, 1997; 62 FR 5778, Feb. 7, 1997; 62 FR 42218, Aug. 6, 1997; 64 FR 46590, 46593, Aug. 26, 1999; 64 FR 51266, Sept. 22, 1999]

§§ 61.50-61.51 [Reserved]

§ 61.52 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size A4 (21 cm×29.7 cm) or 8.5×11 inches (21.6 cm×27.9 cm), and must be plainly printed in black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than 2.5 cm (1 inch) in width must be allowed at the left edge of every tariff publication.

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as Original title page, Original page 1, Original page 2, etc.

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer's title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the title and street address of the issuing officer, and the issued date; and in the upper right-hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer's title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the

material, e.g., a line, or the term Printed in USA, or End.

(3) Only one format may be employed in a tariff publication.

(c) Incumbent local exchange carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and supporting information, electronically in accordance with the requirements set forth in §61.13 through §61.17.

[49 FR 40869, Oct. 18, 1984, as amended at 58 FR 44906, Aug. 25, 1993; 62 FR 5778, Feb. 7, 1997; 63 FR 35541, June 30, 1998]

§ 61.54 Composition of tariffs.

(a) Tariffs must contain in consecutive order: A title page; check sheet; table of contents; list of concurring, connecting, and other participating carriers; explanation of symbols and abbreviations; application of tariff; general rules (including definitions), regulations, exceptions and conditions; and rates. If the issuing carrier elects to add a section assisting in the use of the tariff, it should be placed immediately after the table of contents.

(b) The title page of every tariff and supplement must show:

(1) *FCC number, indication of cancellations.* In the upper right-hand corner, the designation of the tariff or supplement as FCC No. ____, or Supplement No. ____ to FCC No. ____, and immediately below, the FCC number or numbers of tariffs or supplements cancelled thereby.

(2) *Name of carrier, class of service, geographical application, means of transmission.* The exact name of the carrier and such other information as may be necessary to identify the carrier issuing the tariff publication; a brief statement showing each class of service provided; the geographical application; and the type of facilities used to provide service.

(3) *Expiration date.* Subject to §61.59, when the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner. Changes in expiration date must be made pursuant to the notice requirements of §61.58, unless otherwise authorized by the Commission.

Expires at the end of __ (date) unless sooner canceled, changed, or extended.

(4) *Title and address of issuing officer.* The title and street address of the officer issuing the tariff or supplement in the format specified in §61.52.

(5) *Revised title page.* When a revised title page is issued, the following notation must be shown in connection with its effective date:

Original tariff _effective _____ (here show the effective date of the original tariff).

(c)(1)(i) The page immediately following the title page must be designated as Original page 1 and captioned Check Sheet. When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example, Page 1 to 150, inclusive, of this tariff are effective as of the date shown. When new pages are added, they must be numbered in continuing sequence, and designated as Original page _____. For example, when the original tariff filed has 150 pages, the first page added after page 150 is to be designated as Original page 151, and the foregoing notation must be revised to include the added pages.

(ii) Alternatively, the carrier is permitted to number its tariff pages, other than the check sheet, to reflect the section number of the tariff as well as the page. For example, under this system, pages in section 1 of the tariff would be numbered 11, 12, etc., and pages in section 2 of the tariff would be numbered 21, 22, etc. Issuing carriers shall utilize only one page numbering system throughout its tariff.

(2) If pages are to be inserted between numbered pages, each such page must be designated as an original page and must bear the number of the immediately preceding page followed by an alpha or numeric suffix. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first inserted page must be designated as Original page 44A or 44.1 and the second inserted page as Original page 44B or 44.2. Issuing carriers may not utilize both the alpha and numeric systems in the same publication.

(3)(i) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above) are added to the tariff, or when supplements are issued, the check sheet must be revised accordingly. Revised check sheets must indicate with an asterisk the specific pages added or revised. In addition to the notation in (1), the check sheet must list, under the heading The original and revised pages named below (and Supplement No. _____) contain all changes from the original tariff that are in effect on the date shown, all original pages in numerical order that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title.....	1st
1.....	*8th
3.....	5th
5A.....	*Orig.
10.....	*8th
151.....	Orig.

*New or Revised page.

(ii) On each page, the carrier shall indicate the transmittal number under which that page was

submitted.

(4) Changes in, and additions to tariffs must be made by reprinting the page upon which a change or addition is made. Such changed page is to be designated as a revised page, canceling the page which it amends. For example, First revised page 1 cancels original page 1, or Second revised page 2 cancels first revised page 2, etc. When a revised page omits rates or regulations previously published on the page which it cancels, but such rates or regulations are published on another page, the revised page must make specific reference to the page on which the rates or regulations will be found. This reference must be accomplished by inserting a sentence at the bottom of the revised page that states Certain rates (or regulations) previously found on this page can now be found on page _____. In addition, the page on which the omitted material now appears must bear the appropriate symbol opposite such material, and make specific reference to the page from which the rates or regulations were transferred. This reference must be accomplished by inserting a sentence at the bottom of the other page that states Certain rates (or regulations) on this page formerly appeared on page _____.

(5) Rejected pages must be treated as indicated in §61.69.

(d) *Table of contents.* The table of contents must contain a full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(e) *Tariff User's guide.* At its option, a carrier may include a section explaining how to use the tariff.

(f) *List of concurring carriers.* This list must contain the exact name or names of carriers concurring in the tariff, alphabetically arranged, and the name of the city or town in which the principal office of every such carrier is located. If there are no concurring carriers, then the statement no concurring carriers must be made at the place where the names of the concurring carriers would otherwise appear. If the concurring carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(g) *List of connecting carriers.* This list must contain the exact name or names of connecting carriers, alphabetically arranged, for which rates or regulations are published in the tariff, and the name of the city or town in which the principal office of every such carrier is located. If there are no connecting carriers, then the statement no connecting carriers must be made at the place where their names would otherwise appear. If connecting carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(h) *List of other participating carriers.* This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. If there is no such other carrier, then the statement no participating carriers must be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference must be made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any other participating carrier need not be repeated in this list.

(i)(1) *Symbols, reference marks, abbreviations.* The tariff must contain an explanation of symbols, reference marks, and abbreviations of technical terms used. The following symbols used in tariffs are reserved for the purposes indicated below:

R to signify reduction. I to signify increase. C to signify changed regulation. T to signify a change in text but no change in rate or regulation. S to signify reissued matter. M to signify matter relocated without change. N to signify new rate or regulation. D to signify discontinued rate or regulation. Z to signify a correction.

(2) The uniform symbols must be used as follows.

(i) When a change of the same character is made in all or in substantially all matter in a tariff, it may be indicated at the top of the title page of the tariff or at the top of each affected page, in the following manner: All rates in this tariff are increases, or, All rates on this page are reductions, except as otherwise indicated.

(ii) When a change of the same character is made in all or substantially all matters on a page or supplement, it may be indicated at the top of the page or supplement in the following manner: All rates on this page (or supplement) are increases, or, All rates on this page (or supplement) are reductions except as otherwise indicated.

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in §61.54(i)(1). The number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter. Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

(j) *Rates and general rules, regulations, exceptions and conditions.* The general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all communication services, together with a list of all points of service to and from which the rates

apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or condition named in any other tariff.

[49 FR 40869, Oct. 18, 1984, as amended at 64 FR 46591, Aug. 26, 1999]

§ 61.55 Contract-based tariffs.

(a) This section shall apply to price cap LECs permitted to offer contract-based tariffs under §69.727(a) of this chapter.

(b) Composition of contract-based tariffs shall comply with §§61.54(b) through (i).

(c) Contract-based tariffs shall include the following:

(1) The term of contract, including any renewal options;

(2) A brief description of each of the services provided under the contract;

(3) Minimum volume commitments for each service;

(4) The contract price for each service or services at the volume levels committed to by the customers;

(5) A general description of any volume discounts built into the contract rate structure; and

(6) A general description of other classifications, practices, and regulations affecting the contract rate.

[64 FR 51266, Sept. 22, 1999]

§ 61.58 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

(2)(i) Local exchange carriers may file tariffs pursuant to the streamlined tariff filing provisions of section 204(a)(3) of the Communications Act. Such a tariff may be filed on 7 days' notice if it proposes only rate decreases. Any other tariff filed pursuant to section 204(a)(3) of the Communications Act, including those that propose a rate increase or any change in terms and conditions, shall be filed on 15 days' notice. Any tariff filing made pursuant to section 204(a)(3) of the Communications Act must comply with the applicable cost support requirements specified in this part.

(ii) Local exchange carriers may elect not to file tariffs pursuant to section 204(a)(3) of the Communications Act. Any such tariffs shall be filed on at least 16 days' notice.

(iii) Except for tariffs filed pursuant to section 204(a)(3) of the Communications Act, the Chief, Wireline Competition Bureau, may require the deferral of the effective date of any filing made on less than 120 days' notice, so as to provide for a maximum of 120 days' notice, or of such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under §1.773 of this chapter have been filed.

(3) Tariff filings proposing corrections or voluntarily deferring the effective date of a pending tariff revision must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of §61.59. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material. Deferrals must take effect on or before the current effective date of the pending tariff revisions being deferred.

(4) This subsection applies only to dominant carriers. If the tariff publication would increase any rate or charge, or would effectuate and authorized discontinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance, and may include written notification, personal contact, or advertising in newspapers of general circulation.

(b) Tariffs for new services filed by price cap local exchange carriers shall be filed on at least one day's notice.

(c) Contract-based tariffs filed by price cap local exchange carriers pursuant to §69.727(a) of this chapter shall be filed on at least one day's notice.

(d)(1) A local exchange carrier that is filing a tariff revision to remove its corridor or interstate intraLATA toll services from its interexchange basket pursuant to §61.42(d)(4)(ii) shall submit such filing on at least fifteen days' notice.

(2) A local exchange carrier that has removed its corridor and interstate intraLATA toll services from its interexchange basket pursuant to §61.42(d)(4)(ii) shall file subsequent tariff filings for corridor or interstate intraLATA toll services on at least one day's notice.

(e) *Non-price cap carriers and/or services.* (1) Tariff filings in the instances specified in

paragraphs (d)(1) (i), (ii), and (iii) of this section must be made on at least 15 days' notice.

(i) Tariffs filed in the first instance by new carriers.

(ii) Tariffs filings involving new rates and regulations not previously filed at, from, to or via points on new lines; at, from to or via new radio facilities; or for new points of radio communication.

(iii) Tariff filings involving a change in the name of a carrier, a change in Vertical or Horizontal coordinates (or other means used to determine airline mileages), a change in the lists of mileages, a change in the lists of connecting, concurring or other participating carriers, text changes, or the imposition of termination charges calculated from effective tariff provisions. The imposition of termination charges does not include the initial filing of termination liability provisions.

(2) Tariff filings involving a change in rate structure, a new offering, or a rate increase must be made on at least 45 days' notice.

(3) Alascom, Inc. shall file its annual tariff revisions for its Common Carrier Services (Alascom Tariff F.C.C No. 11) on at least 35 days' notice.

(4) All tariff filings not specifically assigned a different period of public notice in this part must be made on at least 35 days' notice.

(f) [Reserved]

[49 FR 40869, Oct. 18, 1984, as amended at 54 FR 19844, May 8, 1989; 55 FR 42384, Oct. 19, 1990; 56 FR 1500, Jan. 15, 1991; 56 FR 5956, Feb. 14, 1991; 56 FR 55239, Oct. 25, 1991; 58 FR 36149, July 6, 1993; 59 FR 10304, Mar. 4, 1994; 62 FR 5778, Feb. 7, 1997; 64 FR 46591, Aug. 26, 1999; 64 FR 51266, Sept. 22, 1999; 67 FR 13228, Mar. 21, 2002]

§ 61.59 Effective period required before changes.

(a) Except as provided in §61.58(a)(3) or except as otherwise authorized by the Commission, new rates or regulations must be effective for at least 30 days before a dominant carrier will be permitted to make any change.

(b) Changes to rates and regulations that have not yet become effective, *i.e.*, are pending, may not be made unless the effective date of the proposed changes is at least 30 days after the scheduled effective date of the pending revisions.

(c) Changes to rates and regulations that have taken effect but have not been in effect for at least 30 days may not be made unless the scheduled effective date of the proposed changes is at least 30 days after the effective date of the existing regulations.

[64 FR 46592, Aug. 26, 1999]

Subpart F Specific Rules for Tariff Publications of Dominant and Non-dominant Carriers

§ 61.66 Scope.

The rules in this subpart apply to all carriers, unless otherwise noted.

[64 FR 46592, Aug. 26, 1999]

§ 61.68 Special notations.

(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice required in §61.58. The following must be used:

Issued on not less than _ days' notice under authority of (specific reference to the special permission, decision, order or section of these rules).

If all the matter in a tariff publication is to become effective on less than the notice required in §61.58, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in §61.58, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

(b) When a portion of any tariff publication is issued in order to comply with the Commission order, the following notation must be associated with that portion of the tariff publication:

In compliance with the order of the Federal Communications Commission in (a specific citation to the applicable order should be made).

§ 61.69 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. This includes, but is not limited to, such publications as tariff numbers or specific page revision numbers. The rejected tariff publication may not be referred to as either cancelled or revised. Within five business days of the release date of the Commission's Order rejecting such tariff publication, the issuing carrier shall file tariff revisions removing the rejected material, unless the Commission's Order establishes a different date for this filing. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation:

In lieu of ___, rejected by the Federal Communications Commission.

[64 FR 46592, Aug. 26, 1999]

§ 61.72 Public information requirements.

- (a) Issuing carriers must make available accurate and timely information pertaining to rates and regulations subject to tariff filing requirements.
- (b) Issuing carriers must, at a minimum, provide a telephone number for public inquiries about information contained in its tariffs. This telephone number should be made readily available to all interested parties.
- (c) Any issuing carrier that is an incumbent local exchange carrier, and chooses to establish an Internet web site, must make its tariffs available on that web site, in addition to the Commission's web site.

[64 FR 46592, Aug. 26, 1999]

§ 61.73 Duplication of rates or regulations.

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

§ 61.74 References to other instruments.

- (a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.
- (b) Tariffs for end-on-end through services may reference the tariffs of other carriers participating in the offering.
- (c) Tariffs may reference concurrences for the purpose of starting where rates or regulations applicable to a service not governed by the tariff may be found.
- (d) Tariffs may reference other FCC tariffs that are in effect and on file with the Commission for purposes of determining mileage, or specifying the operating centers at which a specific service is available.
- (e) Tariffs may reference technical publications which describe the engineering, specifications, or other technical aspects of a service offering, provided the following conditions are satisfied:
 - (1) The tariff must contain a general description of the service offering, including basic parameters and structural elements of the offering;
 - (2) The technical publication includes no rates, regulatory terms, or conditions which are required to be contained in the tariff, and any revisions to the technical publication do not affect rates, regulatory terms, or conditions included in the tariff, and do not change the basic nature of the

offering;

(3) The tariff indicates where the technical publication can be obtained;

(4) The referenced technical publication is publicly available before the tariff is scheduled to take effect; and

(5) The issuing carrier regularly revises its tariff to refer to the current edition of the referenced technical publication.

[49 FR 40869, Oct. 18, 1984, as amended at 61 FR 59366, Nov. 22, 1996; 64 FR 46592, Aug. 26, 1999; 66 FR 16881, Mar. 28, 2001]

§ 61.83 Consecutive numbering.

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

[49 FR 40869, Oct. 18, 1984. Redesignated at 64 FR 46591, Aug. 26, 1999]

§ 61.86 Supplements.

A carrier may not file a supplement except to suspend or cancel a tariff publication, or to defer the effective date of pending tariff revisions. A carrier may file a supplement for the voluntary deferral of a tariff publication.

[64 FR 46591, Aug. 26, 1999]

§ 61.87 Cancellation of tariffs.

(a) A carrier may cancel an entire tariff. Cancellation of a tariff automatically cancels every page and supplement to that tariff except for the canceling Title Page or first page.

(1) If the existing service(s) will be provided under another carrier's tariff, then

(i) The carrier whose tariff is being canceled must revise the Title Page or the first page of its tariff indicating that the tariff is no longer effective, or

(ii) The carrier under whose tariff the service(s) will be provided must revise the Title Page or first page of the tariff to be canceled, using the name and numbering shown in the heading of the tariff to be canceled, indicating that the tariff is no longer effective. This carrier must also file with the Commission the new tariff provisions reflecting the service(s) being canceled. Both filings must be effective on the same date and may be filed under the same transmittal.

(2) If a carrier canceling its tariff intends to cease to provide existing service, then it must revise the Title Page or first page of its tariff indicating that the tariff is no longer effective.

(3) A carrier canceling its tariff, as described in this section, must comply with §61.22 or §§61.54(b)(1) and 61.54(b)(5), as applicable.

(b) When a carrier cancels a tariff as described in this section, the canceling Title Page or the first page of the canceled tariff must show where all rates and regulations will be found except for paragraph (c) of this section. The Title Page or first page of the new tariff must indicate the name of the carrier and tariff number where the canceled material had been found.

(c) When a carrier ceases to provide service(s) without a successor, it must cancel its tariff pursuant to the notice requirements of §61.23 or §61.58, as applicable, unless otherwise authorized by the Commission.

[64 FR 46591, Aug. 26, 1999]

Subpart G Concurrences

§ 61.131 Scope.

Sections 61.132 through 61.136 apply to a carrier which must file concurrences reflecting rates and regulations for through service provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

§ 61.132 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence. Non-dominant issuing carriers shall file revisions reflecting concurrences in their tariffs on the notice period specified in §61.23 of this part. Dominant issuing carriers shall file concurrences in their tariffs on the notice periods specified in §61.58(a)(2) or §61.58(e)(1)(iii) of this part.

[49 FR 40869, Oct. 18, 1984, as amended at 64 FR 46592, Aug. 26, 1999]

§ 61.133 Format of concurrences.

(a) Concurrences must be issued in the following format:

Concurrence

F.C.C. Concurrence No. _____

(Cancels F.C.C. Concurrence No. ___

(Name of Carrier _____)

(Post Office Address _____)

(Date) _____ 19__.

Secretary,

Federal Communications Commission, Washington, D.C. 20554.

This is to report that (name of concurring carrier) assents to and concurs in the tariffs described below. (Name of concurring carrier) thus makes itself a party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

1. Between the different points on the concurring carrier's own system;
2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and
3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

(Note:

Any of the above numbered paragraphs may be omitted or the wording modified to state the points to which the concurrence applies.)

Tariff

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1983, Effective April 1, 1983).

Cancels FCC Concurrence No. ____, effective ____, 19__.

(Name of concurring carrier) By (Title) _____

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

§ 61.134 Concurrences for through services.

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in §61.54 (f), (g) and (h). A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

§ 61.135 Concurrences for other purposes.

When an issuing carrier permits another carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

§ 61.136 Revocation of concurrences.

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 45 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It must be in the following format:

Revocation Notice

(Name of carrier _____)

(Post office address _____)

(Date) _____, 19__.

Secretary,

Federal Communications Commission, Washington, D.C. 20554.

Effective __, 19__ FCC Concurrence No. __, issued by (Name of concurring carrier) in favor of (Name of issuing carrier) is hereby cancelled and revoked. Rates and regulations of (Name of concurring carrier) and its connecting carriers will thereafter be found in Tariff FCC No. __ issued by __ (If the concurring carrier has ceased operations, the revocation notice must so indicate.)

(Name of carrier) By (Title) _____

Subpart H Applications for Special Permission

§ 61.151 Scope.

Sections 61.152 and 61.153 set forth the procedures to be followed by a carrier applying for a waiver of any of the rules in this part.

[55 FR 19173, May 8, 1990]

§ 61.152 Terms of applications and grants.

Applications for special permission must contain:

- (a) A detailed description of the tariff publication proposed to be put into effect;
- (b) A statement citing the specific rules and the grounds on which waiver is sought;
- (c) A showing of good cause; and
- (d) A statement as to the date and method of filing the original of the application for special permission as required by §61.153(b) and the date and method of filing the copies required by §61.153 (a) and (c).

If approved, the carrier must comply with all terms and use all authority specified in the grant. If a carrier elects to use less than the authority granted, it must apply to the Commission for modification of the original grant. If a carrier elects not to use the authority granted within sixty days of its effective date, the original grant will be automatically cancelled by the Commission.

[55 FR 19173, May 8, 1990]

§ 61.153 Method of filing applications.

(a) An application for special permission must be addressed to “Secretary, Federal Communication Commission, Washington, DC 20554.” The date on which the application is received by the Secretary of the Commission (or the Mail Room where submitted by mail) is considered the official filing date.

(b) In addition, except for issuing carriers filing tariffing fees electronically, for all special permission applications requiring fees as set forth in part 1, subpart G of this chapter, the issuing carrier must submit the original of the application letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in §1.1105 of this chapter. Issuing carriers submitting tariffing fees electronically should submit the Form 159 and the original cover letter to the Secretary of the Commission in lieu of the Mellon Bank. The Form 159 should display the Electronic Audit Code in the box in the upper left hand corner marked “reserved.” Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

(c) In addition to the requirements set forth in paragraphs (a) and (b) of this section, the issuing carrier must send a copy of the application letter with all attachments to the Secretary, Federal Communications Commission and a separate copy with all attachments to the Chief, Pricing Policy Division. If a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format:

Application No. (Date) Secretary

Federal Communications Commission, Washington, DC 20554.

Attention: Wireline Competition Bureau (here provide the statements required by Sec. 61.152).

(Exact name of carrier) (Name of officer or agent) (Title of officer or agent)

[55 FR 19173, May 8, 1990, as amended at 64 FR 46592, 46593, Aug. 26, 1999; 67 FR 13228, Mar. 21, 2002]

Subpart I Adoption of Tariffs and Other Documents of Predecessor Carriers

§ 61.171 Adoption notice.

When a carrier's name is changed, or its operating control transferred from one carrier to another in whole or in part, the successor carrier must file tariff revisions to reflect the name change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 35 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the

successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to §61.171 of the Commission's Rules. The adoption notice, if used, must read as follows:

The (Exact name of successor carrier or receiver) here adopts, ratifies and makes its own in every respect, all applicable tariffs and amendments filed with the Federal Communications Commission by (predecessor) prior to (date).

§ 61.172 Changes to be incorporated in tariffs of successor carrier.

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply.

Subpart J Suspensions

§ 61.191 Carrier to file supplement when notified of suspension.

If a carrier is notified by the Commission that its tariff publication has been suspended, the carrier must file, within five business days from the release date of the suspension order, a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

[64 FR 46593, Aug. 26, 1999]

§ 61.192 Contents of supplement announcing suspension.

(a) A supplement announcing a suspension by the Commission must specify the term of suspension imposed by the Commission.

(b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication must specify the applicable tariff publication effective during the period of suspension.

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

FCC Part 69 – Summary of Rule Revisions

1. Replace “access” with “intercarrier (access and reciprocal compensation)” or deleted “access” in the following sections in order to clarify that the part 69 rules apply to access and reciprocal compensation intercarrier traffic or usage.

- (a) Title of part 69
- (b) Section Contents – 69.1, 69.3, 69.604, 69.605
- (c) Subpart A – 69.1, 69.1(a), 69.1(b)
 - 69.2(a), 69.2(b), 69.2(s)
 - 69.3, 69.3(a), 69.3(c), 69.3(e), 69.3(e)(2), 69.3(e)(7), 69.3(e)(11), 69.3(f)(1), 69.3(f)(2), 69.3(f)(3), 69.3(h)
 - 69.4(b), 69.4(d)(2)(ii), 69.4(e), 69.4(h), 69.4(j)
 - 69.5(b)
- (d) Subpart B – 69.101(a)
 - 69.106(a) to (c), 69.106(f)(1)(ii), 69.106(f)(2), 69.106(h)(1)(ii), 69.106(h)(2)
 - 69.121(a)(1)
 - 69.123(a)(3), 69.123(b)(3), 69.123(b)(4)
- (e) Subpart C – 69.152(h)(1)
- (d) Subpart D – 69.306(b)
 - 69.309
 - 69.310
- (e) Subpart E – 69.401(a) to (d), 69.401(f)
 - 69.402(a) to (b)
 - 69.403
 - 69.407(b)
 - 69.408
 - 69.409
 - 69.411
- (f) Subpart F – 69.601(a)
 - 69.602(h)
 - 69.603(a), 69.603(b), 69.603(f), 69.603(g), 69.603(h)(6), 69.603(h)(7)
 - 69.604, 69.604(a)
 - 69.605, 69.605(a), 69.605(c)
 - 69.610(a), 69.610(c)

2. Inter-carrier charges are applied to all Retail Service Provider interoffice traffic (including reciprocal compensation arrangements, ISP traffic and Expanded Area Service where necessary) that use local exchange carrier facilities to originate and/or transport and/or terminate their traffic. Deleted interstate or foreign where appropriate.

- (a) Subpart A – 69.1(a) to (b)
 - 69.2(a), 69.2(b), 69.2(p), 69.2(s), 69.2(z), 69.2(yy), 69.2(zz), 69.2(aaa)
 - 69.5(b), 69.5(d), 69.5(e), 69.5(g)

- (c) Subpart B – 69.106(a) to (b), 69.106(f)(1), 69.106(f)(1)(i); 69.106(f)(1)(ii), 69.106(f)(2), 69.106(g), 69.106(h)(1), 69.106(h)(1)(i), 69.106(h)(1)(ii), 69.106(h)(2)
 - 69.108(a) to (c)
 - 69.109(a) to (b)
 - 69.110(a), 69.110(b)(1), 69.110(b)(2), 69.110(e), 69.110(f), 69.110(g), 69.110(h)
 - 69.111(a)(2)(i), 69.111(a)(2)(ii), 69.111(a)(2)(iii), 69.111(c)(2)(i), 69.111(c)(2)(ii), 69.111(e)(2)(i), 69.111(e)(2)(ii), 69.111(g)(1), 69.111(g)(2), 69.111(g)(3), 69.111(h), 69.111(h)(i), 69.111(i)(1), 69.111(j), 69.111(k), 69.111(l), 69.111(l)(1), 69.111(l)(2)(i), 69.111(l)(2)(ii), 69.111(l)(3), 69.111(m), 69.111(m)(1)(i), 69.111(m)(1)(ii), 69.111(m)(2)
 - 69.112(a), 69.112(b)(1), 69.112(b)(2), 69.112(c)(1), 69.112(c)(2), 69.112(e), 69.112(f), 69.112(g), 69.112(h)
 - 69.120(a) to (b)
 - 69.123(a)(2), 69.123(d)
 - 69.125(a), 69.125(b)(1), 69.125(b)(2), 69.125(c)
 - 69.128
 - 69.129

3. Defined Retail Service Provider (RSP) – Replaced Interexchange Carrier or carrier's carrier with RSP, or added RSP to clarify that charges are applied to all RSPs.

- (a) Subpart A – 69.1(a)
 - 69.2(a), 69.2(b), 69.2(m), 69.2(gg), 69.2(nn), 69.2(qq), 69.2(rr), 69.2(ss), 69.2(vv), 69.2(xx)
 - 69.3(e)(3)
 - 69.4(d)(2)(ii), 69.4(h), 69.4(j)
 - 69.5(b)

- (b) Subpart B – 69.106(a), 69.106(c), 69.106(f)(2), 69.106(g), 69.106(h)(2)
 - 69.108(a), 69.108(c)

3(b) continued:

- 69.110(a)
- 69.111(a)(2)(i), 69.111(a)(2)(ii), 69.111(l)(2)(i), 69.111(l)(2)(ii),
69.111(m)(1)(i), 69.111(m)(1)(ii)
- 69.112(a)
- 69.114(c), 69.114(e)
- 69.120(a) to (b)
- 69.125(b)(1), 69.125(c)
- 69.126

(c) Subpart D – 69.307(c)(2)

(d) Subpart E – 69.406(a)(3), 69.406(a)(4), 69.406(a)(6), 69.406(a)(7), 69.406(a)(8)

(e) Subpart H – 69.703(c), 69.725(a)

4. Interoffice rate elements for which charges will be developed.

(a) Subpart A – 69.4(b)(3) to 69.4(b)(6), 69.4(b)(8) to 69.4(b)(9), 69.4(h)(3) to (h)(5),
69.4(h)(7), 69.4(j)(1) to (j)(6)

5. Added interstate when referring to common line and special access to clarify that only an interstate revenue requirement is developed for these elements. State special access will mirror interstate to develop a unitary special access rate.

(a) Section contents – 69.104
- Subpart F

(b) Subpart A – 69.4(a), 69.4(b)(2), 69.4(b)(7)

(c) Subpart B – 69.104
- 69.114(a) to (e)
- 69.123(c)(1), 69.123(c)(2)

(d) Subpart F – Subpart F title.

6. Added interstate to end user charges to clarify that the end user charges referred to are interstate.

(a) Subpart (a) – 69.5(a)

7. End user charges for rate of return carriers will mirror price cap end user charges in a state and price cap end user charges may include traffic sensitive costs if price cap cost based rates exceed current price cap rates.

- (a) Subpart B – 69.104(n)(1), 69.104(o)(1)
- (b) Subpart C – 69.152(d)(1), 69.152(d)(1)(iii), 69.152(e)(1), 69.152(e)(1)(iii), 69.152(k)(1), 69.152(k)(1)(iii)

8. Net investment and expenses for the elements will be developed for interoffice or interstate revenue requirement calculations.

- (a) Subpart A – 69.2(p), 69.2(z)

9. Net investment and expenses will be assigned to interstate for common line and special access and a total interstate investment and expense calculation is required in the State Equalization Fund calculation. All other rate element net investment and expense calculations are based on interoffice costs.

- (a) Subpart D - 69.301(a), 69.301(c)
 - 69.302(a) to (b)
 - 69.303
 - 69.304(a) to (b)
 - 69.305(a) to (e)
 - 69.306(b) to (d), 69.306(d)(1) to (d)(2), 69.306(e)
 - 69.307(a) to (b), 69.307(c)(2), 69.307(d) to (e)
 - 69.309
 - 69.310
- (b) Subpart E – Subpart E (a)
 - 69.401(a) to (f)
 - 69.402(a) to (b)
 - 69.403
 - 69.404
 - 69.405
 - 69.406(a)(1) to (a)(8)
 - 69.407(a) to (d)
 - 69.408
 - 69.409
 - 69.411

10. Re-initialization of price cap rate levels if their interoffice cost based rates are lower than current rates.

- (a) Section contents – 69.159
- (b) Subpart A – 69.1(c), 69.3(h), 69.4(i)
- (c) Subpart C – 69.159

11. Charges developed using the interstate rate of return.

- (a) Subpart B – 69.101(b)

12. Eliminated the residual interconnection charge and reallocation of transport expense. Transport charges are developed incorporating all transport costs.

- (a) Section contents – 69.155, 69.415
- (b) Subpart B – 69.101(c)
 - 69.111(c)(2)(i) to (c)(2)(ii)
 - 69.125(b)(2)
- (c) Subpart C – 69.151(b)
 - 69.155
- (d) Subpart E – 69.415

13. Requirement to add calling party number and the carrier identification code to a call and actions that may be taken if inter-carrier charges are not paid by RSPs.

- (a) Subpart A – 69.5(f), 69.5(h)

14. Delete local from switching and transport.

- (a) Section contents – 69.106
- (b) Subpart B - 69.106, 69.106(b), 69.106(c), 69.106(f), 69.106(f)(1 to (f)(2), 69.106(h), 69.106(h)(1) to (h)(2)
- (c) Subpart D – 69.306(a) to (d), 69.306(d)(2), 69.306(e)
14(c) continued:
 - 69.307(c)(1) to (c)(2), 69.307(d), 69.307(e)

(d) Subpart E – 69.404
- 69.406(a)(7)

Electronic Code of Federal Regulations (e-CFR)

Title 47: Telecommunication

PART 69 INTERCARRIER (ACCESS AND RECIPROCAL COMPENSATION) CHARGES

Section Contents

Subpart A General

- § 69.1 Application of intercarrier (access and reciprocal compensation) charges.
- § 69.2 Definitions.
- § 69.3 Filing of intercarrier (access and reciprocal compensation) service tariffs.
- § 69.4 Charges to be filed.
- § 69.5 Persons to be assessed.

Subpart B Computation of Charges

- § 69.101 General.
- § 69.104 Interstate End user common line for non-price cap incumbent local exchange carriers.
- § 69.105 Carrier common line for non-price cap local exchange carriers.
- § 69.106 Switching.
- § 69.108 Transport rate benchmark.
- § 69.109 Information.
- § 69.110 Entrance facilities.
- § 69.111 Tandem-switched transport and tandem charge.
- § 69.112 Direct-trunked transport.
- § 69.113 Non-premium charges for MTS–WATS equivalent services.
- § 69.114 Special access.
- § 69.115 Special access surcharges.
- § 69.116 Universal service fund.
- § 69.117 Lifeline assistance.
- § 69.118 Traffic sensitive switched services.
- § 69.119 Basic service element expedited approval process.
- § 69.120 Line information database.
- § 69.121 Connection charges for expanded interconnection.
- § 69.123 Density pricing zones for special access and switched transport.
- § 69.124 Interconnection charge.
- § 69.125 Dedicated signalling transport.
- § 69.126 Nonrecurring charges.

- § 69.127 Transitional Equal Charge Rule.
- § 69.128 Billing name and address.
- § 69.129 Signalling for tandem switching.
- § 69.130 Line port costs in excess of basic analog service.
- § 69.131 Universal service end user charges.

Subpart C Computation of Charges for Price Cap Local Exchange Carriers

- § 69.151 Applicability.
- § 69.152 End user common line for price cap local exchange carriers.
- § 69.153 Presubscribed interexchange carrier charge (PICC).
- § 69.154 Per-minute carrier common line charge.
- § 69.155 [Reserved]
- § 69.156 Marketing expenses.
- § 69.157 Line port costs in excess of basic, analog service.
- § 69.158 Universal service end user charges.

§ 69.159 Re-initialization of Price Cap Carrier rates

Subpart D Apportionment of Net Investment

- § 69.301 General.
- § 69.302 Net investment.
- § 69.303 Information origination/termination equipment (IOT).
- § 69.304 Subscriber line cable and wire facilities.
- § 69.305 Carrier cable and wire facilities (C&WF).
- § 69.306 Central office equipment (COE).
- § 69.307 General support facilities.
- § 69.308 [Reserved]
- § 69.309 Other investment.
- § 69.310 Capital leases.

Subpart E Apportionment of Expenses

- § 69.401 Direct expenses.
- § 69.402 Operating taxes (Account 7200).
- § 69.403 Marketing expense (Account 6610).
- § 69.404 Telephone operator services expenses in Account 6620.
- § 69.405 Published directory expenses in Account 6620.
- § 69.406 Local business office expenses in Account 6620.
- § 69.407 Revenue accounting expenses in Account 6620.
- § 69.408 All other customer services expenses in Account 6620.

- § 69.409 Corporate operations expenses (included in Account 6720).
- § 69.411 Other expenses.
- § 69.412 Non participating company payments/receipts.
- § 69.413 Universal service fund expenses.
- § 69.414 Lifeline assistance expenses.
- § 69.415 [Reserved]

Subpart F
Segregation of Interstate Common Line Element Revenue Requirement

- § 69.501 General.
- § 69.502 Interstate Base factor allocation.

Subpart G Exchange Carrier Association

- § 69.601 Exchange carrier association.
- § 69.602 Board of directors.
- § 69.603 Association functions.
- § 69.604 Billing and collection of inter-carrier charges.
- § 69.605 Reporting and distribution of pool inter-carrier revenues.
- § 69.606 Computation of average schedule company payments.
- § 69.607 Disbursement of Carrier Common Line residue.
- § 69.608 Carrier Common Line hypothetical net balance.
- § 69.609 End User Common Line hypothetical net balances.
- § 69.610 Other hypothetical net balances.
- § 69.612 Long term and transitional support.

Subpart H Pricing Flexibility

- § 69.701 Application of rules in this subpart.
- § 69.703 Definitions.
- § 69.705 Procedure.
- § 69.707 Geographic scope of petition.
- § 69.709 Dedicated transport and special access services other than channel terminations between LEC end offices and customer premises.
- § 69.711 Channel terminations between LEC end offices and customer premises.
- § 69.713 Common line, traffic-sensitive, and tandem-switched transport services.
- §§ 69.714-69.724 [Reserved]
- § 69.725 Attribution of revenues to particular wire centers.
- § 69.727 Regulatory relief.
- § 69.729 New services.
- § 69.731 Low-end adjustment mechanism.

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

Source: 48 FR 10358, Mar. 11, 1983, unless otherwise noted.

Subpart A General

§ 69.1 Application of inter-carrier (access and reciprocal compensation) service charges.

(a) This part establishes rules for inter-carrier charges for all originating, transport or terminating network services provided by telephone companies to RSPs.

(b) Except as provided in §69.1(c), charges for such service shall be computed, assessed, and collected and revenues from such charges shall be distributed as provided in this part. Tariffs shall be filed and supported as provided under part 61 of this chapter, except as modified herein.

(c) The following provisions of this part shall apply to telephone companies subject to price cap regulation only to the extent that application of such provisions is necessary to develop the nationwide average carrier common line charge, for purposes of reporting pursuant to §§43.21 and 43.22 of this chapter, and for computing initial charges for new rate elements: §§69.3(f), 69.106(b), 69.106(f), 69.106(g), 69.109(b), 69.110(d), 69.111(c), 69.111(g)(1), 69.111(g)(2), 69.111(g)(3), 69.111(l), 69.112(d), 69.114(b), 69.114(d), 69.125(b)(2), 69.301 through 69.310, and 69.401 through 69.412; and to determine if, as of XXXXXXXX, XX, XXXX, the part 69 cost based rate levels are lower than the existing price cap carrier rate levels pursuant to §69.159. Subject to the provisions of §69.159, the computation of rates by telephone companies subject to price cap regulation shall be governed by the price cap rules set forth in part 61 of this chapter and other applicable Commission rules and orders.

[48 FR 10358, Mar. 11, 1983, as amended at 55 FR 42385, Oct. 19, 1990; 58 FR 41189, Aug. 3, 1993; 62 FR 40463, July 29, 1997]

§ 69.2 Definitions.

For purposes of the part:

(a) *Inter-carrier minutes of use* is that interoffice usage by a Retail Service Provider (RSP) of a carrier's network facilities for the purpose of calculating chargeable usage for access and reciprocal compensation. On the originating end of a call, usage is to be measured from the time the originating end user's call is delivered by the local exchange carrier providing originating facilities and acknowledged as received by the RSP's facilities connected with the local exchange carrier providing originating network facilities used by the RSP. On the terminating end of a call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an inter-carrier call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges, as applicable.

(b) *Access and reciprocal compensation service or inter-carrier service* includes interexchange or

interoffice network facilities provided to a RSP by a telephone company or local exchange carrier for the origination, transport and/or termination of any RSP's end user's call.

(c) *Annual revenue requirement* means the sum of the return component and the expense component.

(d) *Association* means the telephone company association described in subpart G of this part.

(e) *Big Three Expenses* are the combined expense groups comprising: Plant Specific Operations Expense, Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410; Plant Nonspecific Operations Expenses, Accounts 6510, 6530 and 6540, and Customer Operations Expenses, Accounts 6610 and 6620.

(f) *Big Three Expense Factors* are the ratios of the sum of Big Three Expenses apportioned to each element or category to the combined Big Three Expenses.

(g) *Cable and wire facilities* includes all equipment or facilities that are described as cable and wire facilities in the *Separations Manual* and included in Account 2410.

(h) *Carrier cable and wire facilities* means all cable and wire facilities that are not subscriber line cable and wire facilities.

(i) *Central Office Equipment* or *COE* includes all equipment or facilities that are described as Central Office Equipment in the *Separations Manual* and included in Accounts 2210, 2220 and 2230.

(j) *Corporate operations expenses* are included in General and Administrative Expenses (Account 6720).

(k) *Customer operations expenses* include Marketing and Services expenses in Accounts 6610 and 6620, respectively.

(l) *Direct expense* means expenses that are attributable to a particular category or categories of tangible investment described in subpart D of this part and includes:

(1) Plant Specific Operations expenses in Accounts 6110, 6120, 6210, 6220, 6230, 6310 and 6410; and

(2) Plant Nonspecific Operations Expenses in Accounts 6510, 6530, 6540 and 6560.

(m) *End user* means any customer of a RSP that is not a carrier except that a carrier other than a telephone company shall be deemed to be an end user when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications services exclusively as a reseller shall be deemed to be an end user if all

resale transmissions offered by such reseller originate on the premises of such reseller.

(n) *Entry switch* means the telephone company switch in which a transport line or trunk terminates.

(o) *Expense component* means the total expenses and income charges for an annual period that are attributable to a particular element or category.

(p) *Expenses* include allowable expenses in the Uniform System of Accounts, part 32, apportioned to interoffice or interstate or international services pursuant to the *Separations Manual* and allowable income charges apportioned to interoffice or interstate and international services pursuant to the *Separations Manual*.

(q) *General support facilities* include buildings, land, vehicles, aircraft, work equipment, furniture, office equipment and general purpose computers as described in the *Separations Manual* and included in Account 2110.

(r) *Information origination/termination equipment* includes all equipment or facilities that are described as information origination/termination equipment in the *Separations Manual* and in Account 2310 except information origination/termination equipment that is used by telephone companies in their own operations.

(s) *The interexchange category* includes services or facilities provided as an integral part of interoffice, interstate or foreign telecommunications that is not described as “access or reciprocal compensation service” for purposes of this part.

(t) *Level I Contributors*. Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a lower than average Common Line revenue requirement per minute of use in 1988 and thus were net contributors (*i.e.*, had a negative net balance) to the association Common Line pool in 1988.

(u) *Level I Receivers*. Telephone companies that are not association Common Line tariff participants, file their own Common Line tariffs effective April 1, 1989, and had a higher than average Common Line revenue requirement per minute of use in 1988 and thus were net receivers (*i.e.*, had a positive net balance) from the association Common Line Pool in 1988.

(v) *Level II Contributors*. A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, that files its own Common Line tariff effective July 1, 1990, and that had a lower than average Common Line revenue requirement per minute of use in 1988 and thus was a net contributor (*i.e.*, had a negative net balance) to the association Common Line pool in 1988.

(w) *Level II Receivers*. A telephone company or group of affiliated telephone companies with fewer than 300,000 access lines and less than \$150 million in annual operating revenues that is not an association Common Line tariff participant, that files its own Common Line tariff effective

July 1, 1990, and that had a higher than average Common Line revenue requirement per minute of use in 1988 and thus was a net receiver (i.e., had a positive net balance) from the association Common Line pool in 1988.

(x) *Line or Trunk* includes, but is not limited to, transmission media such as radio, satellite, wire, cable and fiber optic cable means of transmission.

(y) *Long term support (LTS)* means funds that are provided pursuant to §54.303 of part 54.

(z) *Net investment* means allowable original cost investment in Accounts 2001 through 2003, 1220 and the investments in nonaffiliated companies included in Account 1410, that has been apportioned to interoffice or interstate and foreign services pursuant to the Separations Manual from which depreciation, amortization and other reserves attributable to such investment that has been apportioned to interoffice or interstate and foreign services pursuant to the Separations Manual have been subtracted and to which working capital that is attributable to interoffice or interstate and foreign services has been added.

(aa) *Operating taxes* include all taxes in Account 7200;

(bb) *Origination* of a service that is switched in a Class 4 switch or an interexchange switch that performs an equivalent function ends when the transmission enters such switch and *termination* of such a service begins when the transmission leaves such a switch, except that;

(1) Switching in a Class 4 switch or transmission between Class 4 switches that is not deemed to be interexchange for purposes of the Modified Final Judgment entered August 24, 1982, in *United States v Western Electric Co.*, D.C. Civil Action No. 820192, will be origination or termination for purposes of this part; and

(2) *Origination and Termination* does not include the use of any part of a line, trunk or switch that is not owned or leased by a telephone company.

(cc) *Origination* of any service other than a service that is switched in a Class 4 switch or a switch that performs an equivalent function ends and “termination” of any such service begins at a point of demarcation that corresponds with the point of demarcation that is used for a service that is switched in a Class 4 switch or a switch that performs an equivalent function.

(dd) *Private line* means a line that is used exclusively for an interexchange service other than MTS, WATS or an MTS WATS equivalent service, including a line that is used at the closed end of an FX WATS or CCSA service or any service that is substantially equivalent to a CCSA service.

(ee) *Public telephone* is a telephone provided by a telephone company through which an end user may originate interoffice, interstate or foreign telecommunications for which he pays with coins

or by credit card, collect or third number billing procedures.

(ff) *Return component* means net investment attributable to a particular element or category multiplied by the authorized annual rate of return.

(gg) *Subscriber line cable and wire facilities* means all lines or trunks on the subscriber side of a Class 5 or end office switch, including lines or trunks that do not terminate in such a switch, except lines or trunks that connect a RSP.

(hh) *Telephone company* or *Local exchange carrier* as used in this part means an incumbent local exchange carrier as defined in section 251(h)(1) of the 1934 Act as amended by the 1996 Act.

(ii) *Transitional support* (TRS) means funds provided by telephone companies that are not association Common Line tariff participants, but were net contributors to the association Common Line pool in 1988, to telephone companies that are not association Common Line tariff participants and were net receivers from the association Common Line pool in 1988.

(jj) *Unit of capacity* means the capability to transmit one conversation.

(kk) *WATS access line* means a line or trunk that is used exclusively for WATS service.

(ll) *Equal access investment and equal access expenses* mean equal access investment and expenses as defined for purposes of the part 36 separations rules.

(mm) *Basic service elements* are optional unbundled features that enhanced service providers may require or find useful in the provision of enhanced services, as defined in Amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Sub-elements for Open Network Architecture, Report and Order, 6 FCC Rcd ____, CC Docket No. 89-79, FCC 91-186 (1991).

(nn) *Dedicated signalling transport* means transport of out-of-band signalling information between a RSP or other person's common channel signalling network and a telephone company's signalling transport point on facilities dedicated to the use of a single customer.

(oo) *Direct-trunked transport* means transport on circuits dedicated to the use of a single RSP or other person, without switching at the tandem,

(1) Between the serving wire center and the end office, or

(2) Between two customer-designated telephone company offices.

(pp) *End office* means the telephone company office from which the end user receives exchange service.

(qq) *Entrance facilities* means transport from the RSP or other person's point of demarcation to

the serving wire center.

(rr) *Serving wire center* means the telephone company central office designated by the telephone company to serve the geographic area in which the RSP's or other person's point of demarcation is located.

(ss) *Tandem-switched transport* means transport of traffic that is switched at a tandem switch,

(1) Between the serving wire center and the end office, or

(2) Between the telephone company office containing the tandem switching equipment, as described in §36.124 of this chapter, and the end office.

Tandem-switched transport between a serving wire center and an end office consists of circuits dedicated to the use of a single RSP or other person from the serving wire center to the tandem (although this dedicated link will not exist if the serving wire center and the tandem are located in the same place) and circuits used in common by multiple RSPs or other persons from the tandem to the end office.

(tt) [Reserved]

(uu) *Price cap regulation* means the method of regulation of dominant carriers provided in §§61.41 through 61.49 of this chapter.

(vv) *Signalling for tandem switching* means the carrier identification code (CIC) and the OZZ code, or equivalent information needed to perform tandem switching functions. The CIC identifies the RSP and the OZZ identifies the RSP trunk to which traffic should be routed.

(ww) *Interstate common line support (ICLS)* means funds that are provided pursuant to §54.901 of this chapter.

(xx) *Retail Service Provider (RSP)* means any telecommunications service provider, including enhanced service providers or information service providers that offers and provides retail services to its customers either as a stand alone service or bundled with other telecommunications and/or enhanced and/or information services and provides those services utilizing the originating and/or transport and/or terminating facilities of a local exchange carrier.

(yy) *Inter-carrier compensation* means the inter-carrier network service charges (interstate access, intrastate access, reciprocal compensation,) that a local exchange carrier bills to and payments received from a RSP for the provision of originating and/or transport and/or terminating facilities by a local exchange carrier that a RSP uses to provide its customer service.

(zz) *Interoffice* means net investment and related costs (taxes, expenses) assigned to interstate or international and intrastate interexchange services by the procedures set forth in the Separations

Manual and this part.

(aaa) Reciprocal compensation means the duty of an RSP to establish compensation arrangements for the transport and termination of telecommunications traffic that originates on the network facilities of that RSP and terminates on the facilities of another telecommunications carrier in the same local area.

[52 FR 37309, Oct. 6, 1987, as amended at 53 FR 28395, July 28, 1988; 53 FR 30059, Aug. 10, 1988; 54 FR 3456, Jan. 24, 1989; 54 FR 11718, Mar. 22, 1989; 55 FR 6990, Feb. 28, 1990; 56 FR 33880, July 24, 1991; 57 FR 54719, Nov. 20, 1992; 58 FR 41189, Aug. 3, 1993; 59 FR 32930, June 27, 1994; 62 FR 31932, June 11, 1997; 62 FR 32962, June 17, 1997; 64 FR 46593, Aug. 26, 1999; 66 FR 59730, Nov. 30, 2001; 67 FR 5703, Feb. 6, 2002]

§ 69.3 Filing of intercarrier (access and reciprocal compensation) service tariffs.

- (a) Except as provided in paragraphs (g) and (h) of this section, a tariff shall be filed with this Commission for a two-year period. Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.
- (b) The requirements imposed by paragraph (a) of this section shall not preclude the filing of revisions to those annual tariffs that will become effective on dates other than July 1.
- (c) Any tariff filing, the filing of any petitions for rejection, investigation or suspension and the filing of any responses to such petitions shall comply with the applicable rules of this Commission relating to tariff filings.
- (d) The association shall file a tariff as agent for all telephone companies that participate in an association tariff.
- (e) A telephone company or group of telephone companies may file a tariff that is not an association tariff. Such a tariff may cross-reference the association tariff for some elements and include separately computed charges of such company or companies for other elements. Any such tariff must comply with the requirements hereinafter provided:
 - (1) Such a tariff must cross reference association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements.
 - (2) Such a tariff that cross-references an association charge for any end user element must cross-reference association charges for all end user elements;
 - (3) Such a tariff that cross-references an association charge for any element other than the Carrier Common Line element must cross-reference association charges for all charges other than the Carrier Common Line element;

- (4) Except for charges subject to price cap regulation as that term is defined in §61.3(v) of this chapter, any charge in such a tariff that is not an association charge must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;
- (5) A telephone company or companies that elect to file such a tariff for 1984 access charges shall notify AT&T on or before the 40th day after the release of the Commission order adopting this part;
- (6) A telephone company or companies that elect to file such a tariff shall notify the association not later than March 1 of the year the tariff becomes effective, if such company or companies did not file such a tariff in the preceding biennial period or cross-reference association charges in such preceding period that will be cross-referenced in the new tariff. A telephone company or companies that elect to file such a tariff not in the biennial period shall file its tariff to become effective July 1 for a period of one year. Thereafter, such telephone company or companies must file its tariff pursuant to paragraphs (f)(1) or (f)(2) of this section.
- (7) Such a tariff shall not contain charges for any elements that are disaggregated or deaveraged within a study area that is used for purposes of jurisdictional separations, except as otherwise provided in this chapter.
- (8) Such a tariff shall not contain charges included in the billing and collection category.
- (9) A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff pursuant to paragraph (a) of this section shall notify the association not later than March 1 of the year the tariff becomes effective that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff for one of its study areas shall file its own Carrier Common Line tariff(s) for all of its study areas.
- (10) Any data supporting a tariff that is not an association tariff shall be consistent with any data that the filing carrier submitted to the association.
- (11) Any changes in Association common line tariff participation and Long Term and Transitional Support resulting from the merger or acquisition of telephone properties are to be made effective on the next annual tariff filing effective date following consummation of the merger or acquisition transaction, in accordance with the provisions of §69.3(e)(9).
- (f)(1) A tariff for intercarrier service provided by a telephone company that is required to file a tariff pursuant to §61.38 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any even numbered year.
- (2) A tariff for intercarrier service provided by a telephone company that may file a tariff pursuant to §61.39 of this Chapter shall be filed for a biennial period and with a scheduled effective date of July 1 of any odd numbered year. Any such telephone company that does not

elect to file a tariff pursuant to the §61.39 procedures, and does not participate in the Association tariff, and does not elect to become subject to price cap regulation, must file a tariff pursuant to §61.38 for a biennial period and with a scheduled effective date of July 1 of any even numbered year.

(3) For purposes of computing charges for elements other than Common Line elements to be effective on July 1 of any even-numbered year, the association may compute rate changes based upon statistical methods which represent a reasonable equivalent to the cost support information otherwise required under part 61 of this chapter.

(g) The following rules apply to telephone company participation in the Association common line pool for telephone companies involved in a merger or acquisition.

(1) Notwithstanding the requirements of §69.3(e)(9), any Association common line tariff participant that is party to a merger or acquisition may continue to participate in the Association common line tariff.

(2) Notwithstanding the requirements of §69.3(e)(9), any Association common line tariff participant that is party to a merger or acquisition may include other telephone properties involved in the transaction in the Association common line tariff, provided that the net addition of common lines to the Association common line tariff resulting from the transaction is not greater than 50,000, and provided further that, if any common lines involved in a merger or acquisition are returned to the Association common line tariff, all of the common lines involved in the merger or acquisition must be returned to the Association common line tariff.

(3) Telephone companies involved in mergers or acquisitions that wish to have more than 50,000 common lines reenter the Association common line pool must request a waiver of §69.3(e)(9). If the telephone company has met all other legal obligations, the waiver request will be deemed granted on the sixty-first (61st) day from the date of public notice inviting comment on the requested waiver unless:

- (i) The merger or acquisition involves one or more partial study areas;
- (ii) The waiver includes a request for confidentiality of some or all of the materials supporting the request;
- (iii) The waiver includes a request to return only a portion of the telephone properties involved in the transaction to the Association common line tariff;
- (iv) The Commission rejects the waiver request prior to the expiration of the sixty-day period;
- (v) The Commission requests additional time or information to process the waiver application prior to the expiration of the sixty-day period; or
- (vi) A party, in a timely manner, opposes a waiver request or seeks conditional approval of the

waiver in response to our public notice of the waiver request.

(h) Local exchange carriers subject to price cap regulation as that term is defined in §61.3(ee) of this chapter, shall file with this Commission a price cap tariff for intercarrier service for an annual period. Such tariffs shall be filed to meet the notice requirements of §61.58 of this chapter, with a scheduled effective date of July 1. Except as provided for in §69.159, such tariff filings shall be limited to changes in the Price Cap Indexes, rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes), and the incorporation of new services into the affected indexes as required by §61.49 of this chapter.

(i) The following rules apply to the withdrawal from Association tariffs under the provision of paragraph (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs pursuant to paragraph (h) of this section.

(1) In addition to the withdrawal provisions of paragraphs (e)(6) and (e)(9) of this section, a telephone company or group of affiliated companies that participates in one or more association tariffs during the current tariff year and that elects to file price cap tariffs or optional incentive regulation tariffs effective July 1 of the following tariff year shall notify the association by March 1 of the following tariff year that it is withdrawing from association tariffs, subject to the terms of this section, to participate in price cap regulation or optional incentive regulation.

(2) The Association shall maintain records of such withdrawals sufficient to discharge its obligations under these Rules and to detect efforts by such companies or their affiliates to rejoin any Association tariffs in violation of the provisions of paragraph (i)(4) of this section.

(3) Notwithstanding the provisions of paragraphs (e) (3), (6), and (9) of this section, in the event a telephone company withdraws from all Association tariffs for the purpose of filing price cap tariffs or optional incentive plan tariffs, such company shall exclude from such withdrawal all average schedule affiliates and all affiliates so excluded shall be specified in the withdrawal. However, such company may include one or more average schedule affiliates in price cap regulation or optional incentive plan regulation provided that each price cap or optional incentive plan affiliate relinquishes average schedule status and withdraws from all Association tariffs and any tariff filed pursuant to §61.39(b)(2) of this chapter. See generally §§69.605(c), 61.39(b) of this chapter; MTS and WATS Market Structure: Average Schedule Companies, Report and Order, 103 FCC 2d 1026–1027 (1986).

(4) If a telephone company elects to withdraw from Association tariffs and thereafter becomes subject to price cap regulation as that term is defined in §61.3(v) of this chapter, neither such telephone company nor any of its withdrawing affiliates shall thereafter be permitted to participate in any Association tariffs.

(j) [Reserved]

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43017, Sept. 21, 1983; 50 FR 41356, Oct. 10,

1985; 51 FR 6119, Feb. 20, 1986; 51 FR 42236, Nov. 24, 1986; 52 FR 21540, June 8, 1987; 52 FR 37310, Oct. 6, 1987; 53 FR 36289, Sept. 19, 1988; 54 FR 39534, Sept. 27, 1989; 55 FR 6990, Feb. 28, 1990; 55 FR 42385, Oct. 19, 1990; 55 FR 50558, Dec. 7, 1990; 58 FR 36149, July 6, 1993; 64 FR 46593, Aug. 26, 1999; 64 FR 51266, Sept. 22, 1999; 65 FR 57743, Sept. 26, 2000; 65 FR 64894, Oct. 31, 2000]

§ 69.4 Charges to be filed.

(a) The interstate end user charges filed with this Commission shall include charges for the End User Common Line element, and for line port costs in excess of basic, analog service.

(b) Except as provided in paragraphs (c), (e), and (h) of this section, and in §69.118, the charges for intercarrier (access and reciprocal compensation) service filed with this Commission shall include charges for each of the following elements:

(1) [Reserved]

(2) Interstate Carrier common line, provided that after June 30, 2003, non-price cap local exchange carriers may not assess a carrier common line charge;

(3) Interoffice Switching;

(4) Interoffice Information;

(5) Interoffice Tandem-switched transport;

(6) Interoffice Direct-trunked transport;

(7) Interstate Special access; and

(8) Interoffice Line information database;

(9) Interoffice Entrance facilities.

(c) [Reserved]

(d) Recovery of Contributions to the Universal Service Support Mechanisms by Incumbent Local Exchange Carriers.

(1) [Reserved]

(2)(i) Local exchange carriers may recover their contributions to the universal service support mechanisms only through explicit, interstate, end-user charges assessed pursuant to either §69.131 or §69.158 that are equitable and nondiscriminatory.

(ii) Local exchange carriers may not recover any of their contributions to the universal service support mechanisms through inter-carrier compensation charges for access and reciprocal compensation imposed on RSPs.

(e) The charges for **inter-carrier** service filed with this Commission by the telephone companies specified in §64.1401(a) of this chapter shall include an element for connection charges for expanded interconnection. The charges for **inter-carrier** service filed with this Commission by the telephone companies not specified in §64.1401(a) of this chapter may include an element for connection charges for expanded interconnection.

(f) [Reserved]

(g) Local exchange carriers may establish appropriate rate elements for a new service, within the meaning of §61.3(x) of this chapter, in any tariff filing.

(h) In addition to the charges specified in paragraph (b) of this section, the charges for inter-carrier service filed with this Commission by price cap local exchange carriers shall include charges for each of the following elements:

(1) Presubscribed interexchange carrier;

(2) Per-minute residual interconnection;

(3) Interoffice Dedicated switching trunk port;

(4) Interoffice Shared switching trunk port;

(5) Interoffice Dedicated tandem switching trunk port;

(6) [Reserved]

(7) Interoffice Multiplexers associated with tandem switching.

(i) Except as provided for in §69.159, paragraphs (b) and (h) of this section are not applicable to a price cap local exchange carrier to the extent that it has been granted the pricing flexibility in §69.727(b)(1).

(j) In addition to the charges specified in paragraph (b) of this section, the charges for inter-carrier service filed with this Commission by non-price cap local exchange carriers may include charges for each of the following elements:

(1) Interoffice Dedicated switching trunk port;

(2) Interoffice Shared switching trunk port;

- (3) Interoffice Dedicated tandem switching trunk port;
- (4) Interoffice Multiplexers associated with tandem switching;
- (5) Interoffice DS1/voice grade multiplexers associated with analog switches; and
- (6) Interoffice Per-message call setup.

[48 FR 43017, Sept. 21, 1983, as amended at 52 FR 21540, June 8, 1987; 52 FR 37310, Oct. 6, 1987; 54 FR 11718, Mar. 22, 1989; 56 FR 33880, July 24, 1991; 57 FR 24380, June 9, 1992; 57 FR 54332, Nov. 18, 1993; 57 FR 54719, Nov. 20, 1993; 58 FR 30995, May 28, 1993; 62 FR 4660, Jan. 31, 1997; 62 FR 31932, June 11, 1997; 62 FR 56132, Oct. 29, 1997; 64 FR 51266, Sept. 22, 1999; 64 FR 60359, Nov. 5, 1999; 65 FR 38701, June 21, 2000; 65 FR 57743, Sept. 26, 2000; 66 FR 59730, Nov. 30, 2001]

§ 69.5 Persons to be assessed.

- (a) Interstate End user charges shall be computed and assessed upon public end users, and upon providers of public telephones, as defined in this subpart, and as provided in subpart B of this part.
- (b) Intercarrier charges for access and reciprocal compensation shall be computed as provided in this part and assessed upon all RSPs that use telephone company interoffice originating and/or transport and/or terminating network facilities for the provision of the RSP's services.
- (c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of interstate or foreign telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of §69.115 of this part.
- (d) Reciprocal compensation charges, as computed in this part, for transport and termination of a local exchange carrier's traffic will be assessed for all interoffice usage that originates on the facilities of the local exchange carrier when the local exchange carrier is the RSP for the originating traffic and if the carrier on whose facilities the interoffice usage is terminating is located within the local exchange carrier's local calling area, unless a negotiated or arbitrated agreement is in effect as of XXXXXXXX, XX, XXXX , or such a negotiated or arbitrated agreement is subsequently agreed to by both of the local exchange carrier and the RSP.
- (e)(1) Internet Service Providers (ISPs) are the RSP for traffic destined for the internet. Under this part, the ISP would be subject to intercarrier charges, as computed in this part, for the use by the ISP of local exchange carrier originating and transport facilities for the ISPs traffic originating on the local exchange carrier's network. However for originating dial-up ISP traffic that utilizes local exchange carrier network facilities, the ISP is currently subject to the ESP/ISP exemption as

provided for in the Commission's orders. When a Competitive Local Exchange Service Provider is located between the ISP and the local exchange carrier whose facilities are used by the ISP to originate traffic destined for the internet, the ISP will have the choice of paying for the use of the local exchange carrier's facilities used to originate and transport its call via a local business rate under the federal ESP/ISP exemption or inter-carrier compensation rates as computed in parts 61 and 69 of this chapter.

(2) Neither the ISP or any other RSP may utilize the ISP/ESP exemption to terminate traffic that originates on its network, or another carrier's or RSP's network, to avoid charges as computed in this part for the transport or termination of its traffic utilizing local exchange carrier facilities. Charges, as determined in this part, shall be assessed to the ISP or RSP for any ISP traffic that utilizes local exchange carrier transport and/or termination facilities.

(f) A RSP shall send calling party number and carrier identification code information with each call that it originates so that the local exchange carrier whose facilities are utilized to transport and terminate the call can identify the RSP in order to bill the RSP charges, as computed in this part, for its use of the local exchange carrier's transport and/or termination facilities. In those circumstances where the calling party number and/or carrier identification code are not available to the local exchange carrier whose facilities are utilized to transport and/or terminate the RSP's call or calls, the interoffice usage for which a RSP cannot be identified will be billed, based on charges computed in this part, to the carrier that interconnects with and delivers such traffic to the terminating local exchange carrier. The interconnected carrier may, if it subsequently identifies the RSP that originates the traffic for which the interconnected carrier was billed, may bill the RSP the charges that the interconnected carrier was billed, including interest.

(g) Rates computed in this part may be applied to local exchange carrier Expanded Area Service (EAS) arrangements if the traffic terminating over such arrangements changes by a significant amount. Otherwise, these arrangements are not subject to the rates calculated in this part.

(h) If charges for services, approved by the Commission under parts 61 and 69 and billed to an RSP, are not paid by the RSP within 60 days, and if the RSP has not made arrangements for such payment, then the local exchange carrier may, at its option, and after notification to the state commission, block the RSP's traffic, until such payments, including interest, are paid in full. If the local exchange carrier is technically unable to block such traffic, the tandem carrier that is interconnected to the local exchange carrier will block such traffic upon request of the local exchange carrier.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 43017, Sept. 21, 1983, as amended at 51 FR 10840, Mar. 31, 1986; 51 FR 33752, Sept. 23, 1986; 52 FR 21540, June 8, 1987; 54 FR 50624, Dec. 8, 1989; 61 FR 65364, Dec. 12, 1996; 64 FR 60359, Nov. 5, 1999]

Subpart B Computation of Charges

§ 69.101 General.

(a) Except as provided in §69.1 and subpart C of this part, charges for each element shall be computed and assessed as provided in this subpart.

(b) All charges in this part shall be computed using the federally authorized rate of return.

(c) As of XXXXXXXX, XX, XXXX for non-price cap local exchange carriers, and with each transport tariff filing, each local exchange carrier shall compare its unitary transport revenues calculated utilizing rates developed in accordance with this part with the interoffice transport revenue requirement calculated pursuant to this part. The revenue requirement difference, if any, not recovered by the revenues shall be apportioned among the Tandem-Switched Transport and Tandem transport sub-elements pursuant to §§69.111(i) and (iii). Revised transport sub-element rates shall be calculated to include this additional revenue requirement apportionment.

[55 FR 42386, Oct. 19, 1990]

§ 69.104 Interstate End user common line for non-price cap incumbent local exchange carriers.

(a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation as that term is defined in §61.3(ee) of this chapter. A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charges shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Charges to multi-line subscribers shall be computed by multiplying a single line rate by the number of lines used by such subscriber.

(c) Until December 31, 2001, except as provided in paragraphs (d) through (h) of this section, the single-line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the End User Common Line element by the projected average number of local exchange service subscriber lines in use during such annual period.

(d)(1) Until December 31, 2001, if the monthly charge computed in accordance with paragraph (c) of this section exceeds \$6, the charge for each local exchange service subscriber line, except a residential line, a single-line business line, or a line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be \$6.

(2) Until December 31, 2001, the charge for each subscriber line associated with a public

telephone shall be equal to the monthly charge computed in accordance with paragraph (d)(1) of this section.

(e) Until December 31, 2001, the monthly charge for each residential and single-line business local exchange service subscriber shall be the charge computed in accordance with paragraph (c) of this section, or \$3.50, whichever is lower.

(f) Except as provided in §54.403 of this chapter, the charge for each residential local exchange service subscriber line shall be the same as the charge for each single-line business local exchange service subscriber line.

(g) A line shall be deemed to be a residential line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) A line shall be deemed to be a single line business line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(i) The End User Common Line charge for each multi-party subscriber shall be assessed as if such subscriber had subscribed to single-party service.

(j)(l) [Reserved]

(m) No charge shall be assessed for any WATS access line.

(n)(1) Except as provided in paragraph (r) of this section, the monthly charge for each residential or single-line business local exchange service subscriber line shall be equal to the average monthly charge for each residential or single-line business local exchange service subscriber line (or the average monthly charge if such charge is disaggregated) charged by all of the price cap carriers in the non-price cap local exchange carrier's state, or charged by the largest urban carrier in the state if the state contains no price cap carrier, during such annual period.

(2) In the event that GDP-PI exceeds 6.5% or is less than 0%, the maximum monthly charge in paragraph (n)(1)(ii) of this section will be adjusted in the same manner as the adjustment in §69.152(d)(2).

(o)(1) Except as provided in paragraph (r) of this section, the maximum monthly End User Common Line Charge for multi-line business lines will be equal to the average monthly multi-line business line charge (or the average monthly charge if such charge is disaggregated) charged by all of the price cap carriers in the non-price cap local exchange carrier's state, or charged by the largest urban carrier in the state if the state contains no price cap carrier, during such annual period.

(2) In the event that GDP-PI is greater than 6.5% or is less than 0%, the maximum monthly charge in paragraph (o)(1)(i) of this section will be adjusted in the same manner as the adjustment in §69.152(k)(2).

(p) Beginning January 1, 2002, non-price cap local exchange carriers shall assess:

(1) No more than one End User Common Line charge as calculated under the applicable method under paragraph (n) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) No more than five End User Common Line charges as calculated under paragraph (o) of this section for Primary Rate Interface ISDN service.

(q) In the event a non-price cap local exchange carrier charges less than the maximum End User Common Line charge for any subscriber lines, the carrier may not recover the difference between the amount collected and the maximum from carrier common line charges, Interstate Common Line Support, or Long Term Support.

(r) *End User Common Line charge deaveraging.* Beginning on January 1, 2002, non-price cap local exchange carriers may geographically deaverage End User Common Line charges subject to the following conditions.

(1) In order for a non-price cap local exchange carrier to be allowed to deaverage End User Common Line charges within a study area, the non-price cap local exchange carrier must have:

(i) State commission-approved geographically deaveraged rates for UNE loops within that study area; or

(ii) A universal service support disaggregation plan established pursuant to §54.315 of this chapter.

(2) All geographic deaveraging of End User Common Line charges by customer class within a study area must be according to the state commission-approved UNE loop zone, or the universal service support disaggregation plan established pursuant to §54.315 of this chapter.

(3) Within a given zone, Multi-line Business End User Common Line rates cannot fall below Residential and Single-Line Business rates.

(4) For any given class of customer in any given zone, the End User Common Line Charge in that zone must be greater than or equal to the End User Common Line charge in the zone with the next lower cost per line.

(5) A non-price cap local exchange carrier shall not receive more through deaveraged End User

Common Line charges than it would have received if it had not deaveraged its End User Common Line charges.

(6) *Maximum charge.* The maximum zone deaveraged End User Common Line Charge that may be charged in any zone is the applicable cap specified in paragraphs (n) or (o) of this section.

(7) *Voluntary Reductions.* A Voluntary Reduction is one in which the non-price cap local exchange carrier charges End User Common Line rates below the maximum charges specified in paragraphs (n)(1) or (o)(1) of this section other than through offset of net increases in End User Common Line charge revenues or through increases in other zone deaveraged End User Common Line charges.

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43018, Sept. 21, 1983; 52 FR 21540, June 8, 1987; 53 FR 28395, July 28, 1988; 61 FR 65364, Dec. 12, 1996; 62 FR 31933, June 11, 1997; 62 FR 32962, June 17, 1997; 66 FR 59730, Nov. 30, 2001]

§ 69.105 Carrier common line for non-price cap local exchange carriers.

(a) This section is applicable only to local exchange carriers that are not subject to price cap regulation as that term is defined in §61.3(ee) of this chapter. Until June 30, 2003, a charge that is expressed in dollars and cents per line per access minute of use shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS or MTS-type services of other common carriers (OCCs).

(b)(1) For purposes of this section and §69.113:

(i) A carrier or other person shall be deemed to receive premium access if access is provided through a local exchange switch that has the capability to provide access for an MTS WATS equivalent service that is substantially equivalent to the access provided for MTS or WATS, except that access provided for an MTS WATS equivalent service that does not use such capability shall not be deemed to be premium access until six months after the carrier that provides such MTS WATS equivalent service receives actual notice that such equivalent access is or will be available at such switch;

(ii) The term *open end* of a call describes the origination or termination of a call that utilizes exchange carrier common line plant (a call can have no, one, or two open ends); and

(iii) All open end minutes on calls with one open end (e.g., an 800 or FX call) shall be treated as terminating minutes.

(2) For association Carrier Common Line tariff participants:

(i) The premium originating Carrier Common Line charge shall be one cent per minute, except as

described in §69.105(b)(3), and

(ii) The premium terminating Carrier Common Line charge shall be computed as follows:

(A) For each telephone company subject to price cap regulation, multiply the company's proposed premium originating rate by a number equal to the sum of the premium originating base period minutes and a number equal to 0.45 multiplied by the non-premium originating base period minutes of that telephone company;

(B) For each telephone company subject to price cap regulation, multiply the company's proposed premium terminating rate by a number equal to the sum of the premium terminating base period minutes and a number equal to 0.45 multiplied by the non-premium terminating base period minutes of that telephone company;

(c) Sum the numbers computed in paragraphs (b)(2)(ii) (A) and (B) of this section for all companies subject to price cap regulation;

(D) From the number computed in paragraph (b)(2)(ii)(C) of this section, subtract a number equal to one cent times the sum of the premium originating base period minutes and a number equal to 0.45 multiplied by the non-premium originating base period minutes of all telephone companies subject to price cap regulation, and;

(E) Divide the number computed in paragraph (b)(2)(ii)(D) of this section by the sum of the premium terminating base period minutes and a number equal to 0.45 multiplied by the non-premium terminating base period minutes of all telephone companies subject to price cap regulation.

(3) If the calculations described in §69.105(b)(2) result in a per minute charge on premium terminating minutes that is less than one cent, both the originating and terminating premium charges for the association CCL tariff participants shall be computed by dividing the number computed in paragraph (b)(2)(ii)(C) of this section by a number equal to the sum of the premium originating and terminating base period minutes and a number equal to 0.45 multiplied by the sum of the non-premium originating and terminating base period minutes of all telephone companies subject to price cap regulation.

(4) The Carrier Common Line charges of telephone companies that are not association Carrier Common Line tariff participants shall be computed at the level of Carrier Common Line access element aggregation selected by such telephone companies pursuant to §69.3(e)(7). For each such Carrier Common Line access element tariff—

(i) The premium originating Carrier Common Line charge shall be one cent per minute, and

(ii) The premium terminating Carrier Common Line charge shall be computed by subtracting the projected revenues generated by the originating Carrier Common Line charges (both premium and non-premium) from the Carrier Common Line revenue requirement for the companies participating in that tariff, and dividing the remainder by the sum of the projected premium

terminating minutes and a number equal to .45 multiplied by the projected non-premium terminating minutes for such companies.

(5) If the calculations described in §69.105(b)(4) result in a per minute charge on premium terminating minutes that is less than one cent, both the originating and terminating premium charges for the companies participating in said Carrier Common Line tariff shall be computed by dividing the projected Carrier Common Line revenue requirement for such companies by the sum of the projected premium minutes and a number equal to .45 multiplied by the projected non-premium minutes for such companies.

(6) Telephone companies that are not association Carrier Common Line tariff participants shall submit to the Commission and to the association whatever data the Commission shall determine are necessary to calculate the charges described in this section.

(c) Any interexchange carrier shall receive a credit for Carrier Common Line charges to the extent that it resells services for which these charges have already been assessed (e.g., MTS or MTS-type service of other common carriers).

(d) From July 1, 2002, to June 30, 2003, the carrier common line charge calculations pursuant to this section shall be limited to an amount equal to the number of projected residential and single-line business lines multiplied by the difference between the residential and single-line business End User Common Line rate cap and the lesser of \$6.50 or the non-price cap local exchange carrier's average cost per line.

[51 FR 10841, Mar. 31, 1986, as amended at 52 FR 21541, June 8, 1987; 54 FR 6293, Feb. 9, 1989; 55 FR 42386, Oct. 19, 1990; 56 FR 21618, May 10, 1991; 62 FR 31933, June 11, 1997; 66 FR 59731, Nov. 30, 2001]

§ 69.106 Switching.

(a) Except as provided in §69.118, charges that are expressed in dollars and cents per interoffice minute of use shall be assessed by local exchange carriers that are not subject to price cap regulation upon all RSPs that use local exchange network facilities for the provision (origination or termination) of the RSP's services.

(b) The per minute charge described in paragraph (a) of this section shall be computed by dividing the projected annual interoffice revenue requirement for the interoffice Switching element, excluding any switching support received by the carrier pursuant to §54.301 of this chapter, by the projected annual interoffice minutes of use minutes for all intercarrier services that use local exchange switching facilities.

(c) If end users of an RSP's service that uses switching facilities pay message unit charges for such calls to the local exchange carrier in a particular exchange, a credit equal to the per message unit charges shall be deducted from the Switching element charges to such RSP for intercarrier service in such exchange. The per minute credit for each such exchange shall be multiplied by the

monthly minutes for such service to compute the monthly credit to such a RSP.

(d) If all local exchange subscribers in such exchange pay message unit charges, the per minute credit described in paragraph (c) of this section shall be computed by dividing total message unit charges to all subscribers in a particular exchange in a representative month by the total minutes of use that were measured for purposes of computing message unit charges in such month.

(e) If some local exchange subscribers pay message unit charges and some do not, a per minute credit described in paragraph (c) of this section shall be computed by multiplying a credit computed pursuant to paragraph (d) of this section by a factor that is equal to total minutes measured in such month for purposes of computing message unit charges divided by the total local exchange minutes in such month.

(f) Except as provided in §69.118, price cap local exchange carriers shall establish rate elements for switching as follows:

(1) Price cap local exchange carriers shall separate from the projected annual interoffice revenues for the Switching element those interoffice costs projected to be incurred for ports (including cards and DS1/voice-grade multiplexers required to access end offices equipped with analog switches) on the trunk side of the local switch. Price cap local exchange carriers shall further identify interoffice costs incurred for dedicated trunk ports separately from costs incurred for shared trunk ports.

(i) Price cap local exchange carriers shall recover dedicated trunk port interoffice costs identified pursuant to paragraph (f)(1) of this section through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

(ii) Price cap local exchange carriers shall recover shared trunk port interoffice costs identified pursuant to paragraph (f)(1) of this section through charges assessed upon purchasers of shared transport. This charge shall be expressed in dollars and cents per interoffice minute of use. The charge shall be computed by dividing the projected costs of the shared ports by the historical annual interoffice minutes of use calculated for purposes of recovery of common transport costs in §69.111(c).

(2) Price cap local exchange carriers shall recover the projected annual interoffice revenues for the Switching element that are not recovered in paragraph (f)(1) of this section through charges that are expressed in dollars and cents per interoffice minute of use and assessed upon all RSPs that use local exchange switching facilities for the provision of inter-carrier services. The maximum charge shall be computed by dividing the projected remainder of the annual revenues for the Switching element by the historical annual interoffice minutes of use for all inter-carrier services that use exchange switching facilities.

(g) A local exchange carrier may recover signaling interoffice costs associated with call setup through a call setup charge imposed upon all RSPs that use that local exchange carrier's facilities to originate or terminate inter-carrier services. This charge must be expressed as dollars and cents

per call attempt and may be assessed on originating calls handed off to the RSP's point of presence and on terminating calls received from a RSP's point of presence, whether or not that call is completed at the called location. Local exchange carriers may not recover through this charge any costs recovered through other rate elements.

(h) Except as provided in §69.118, non-price cap local exchange carriers may establish rate elements for switching as follows:

(1) Non-price cap local exchange carriers may separate from the projected annual interoffice revenue requirement for the Switching element those interoffice costs projected to be incurred for ports (including cards and DS1/voice-grade multiplexers required to access end offices equipped with analog switches) on the trunk side of the local switch. Non-price cap local exchange carriers electing to assess these charges shall further identify interoffice costs incurred for dedicated trunk ports separately from costs incurred for shared trunk ports.

(i) Non-price cap local exchange carriers electing to assess trunk port interoffice charges shall recover dedicated trunk port interoffice costs identified pursuant to paragraph (h)(1) of this section through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

(ii) Non-price cap local exchange carriers electing to assess trunk port interoffice charges shall recover shared trunk port interoffice costs identified pursuant to paragraph (h)(1) of this section through charges assessed upon purchasers of shared transport. This charge shall be expressed in dollars and cents per interoffice minute of use. The charge shall be computed by dividing the projected costs of the shared ports by the historical annual interoffice minutes of use calculated for purposes of recovery of common transport costs in §69.111(c).

(2) Non-price cap local exchange carriers shall recover the projected annual interoffice revenue requirement for the Switching element that are not recovered in paragraph (h)(1) of this section through charges that are expressed in dollars and cents per interoffice minute of use and assessed upon all RSPs that use local exchange switching facilities for the provision of inter-carrier services. The maximum charge shall be computed by dividing the projected remainder of the annual revenue requirement for the Switching element by the historical annual interoffice minutes of use.

[52 FR 37310, Oct. 6, 1987, as amended at 56 FR 33881, July 24, 1991; 62 FR 31933, June 11, 1997; 62 FR 40463, July 29, 1997; 66 FR 59731, Nov. 30, 2001]

§ 69.108 Transport rate benchmark.

(a) For interoffice transport charges computed in accordance with this subpart, the DS3-to-DS1 benchmark ratio shall be calculated as follows: the telephone company shall calculate the ratio of:

(1) The total charge for a 1.609 km (1 mi) channel termination, 16.09 km (10 mi) of interoffice transmission, and one DS3 multiplexer using the telephone company's DS3 special access rates

to;

(2) The total charge for a 1.609 km (1 mi) channel termination plus 16.09 km (10 mi) of interoffice transmission using the telephone company's DS1 special access rates.

(b) Initial interoffice transport rates will generally be presumed reasonable if they are based on special access rates with a DS3-to-DS1 benchmark ratio of 9.6 to 1 or higher.

(c) If a telephone company's initial interoffice transport rates are based on special access rates with a DS3-to-DS1 benchmark ratio of less than 9.6 to 1, those initial transport rates will generally be suspended and investigated absent a substantial cause showing by the telephone company. Alternatively, the telephone company may adjust its initial interoffice transport rates so that the DS3-to-DS1 ratio calculated as described in paragraph (a) of this section of those rates is 9.6 or higher. In that case, initial transport rates that depart from existing special access rates effective on September 1, 1992 so as to be consistent with the benchmark will be presumed reasonable only so long as the ratio of revenue recovered through the interconnection charge to the revenue recovered through facilities-based charges is the same as it would be if the telephone company's existing special access rates effective on September 1, 1992 were used.

[58 FR 41189, Aug. 3, 1993, as amended at 58 FR 44952, Aug. 25, 1993; 58 FR 45267, Aug. 27, 1993]

§ 69.109 Information.

(a) A interoffice charge shall be assessed upon all RSPs that are connected to assistance boards through interexchange directory assistance trunks.

(b) Except as provided in §69.118, if such connections are maintained exclusively by RSPs that offer MTS, the projected annual interoffice revenue requirement for the Information element shall be divided by 12 to compute the monthly assessment to such carriers.

(c) If such connections are provided to additional carriers, charges shall be established that reflect the relative use of such directory assistance service by such RSPs.

[48 FR 10358, Mar. 11, 1983, as amended at 56 FR 33881, July 24, 1991]

§ 69.110 Entrance facilities.

(a) A flat-rated entrance facilities interoffice charge expressed in dollars and cents per unit of capacity shall be assessed upon all RSPs and other persons that use telephone company facilities between the RSP or other person's point of demarcation and the serving wire center.

(b)(1) For telephone companies subject to price cap regulation, initial entrance facilities interoffice charges based on special access channel termination rates for equivalent voice grade, DS1, and DS3 services as of September 1, 1992, adjusted for changes in the price cap index

calculated for the July 1, 1993 annual filing for telephone companies subject to price cap regulation, generally shall be presumed reasonable if the benchmark defined in §69.108 is satisfied. Entrance facilities charges may be distance-sensitive. Distance shall be measured as airline kilometers between the point of demarcation and the serving wire center.

(2) For telephone companies not subject to price cap regulation, entrance facilities interoffice charges based on special access channel termination rates for equivalent voice grade, DS1, and DS3 services generally shall be presumed reasonable if the benchmark defined in §69.108 is satisfied. Entrance facilities interoffice charges may be distance-sensitive. Distance shall be measured as airline kilometers between the point of demarcation and the serving wire center.

(c) If the telephone company employs distance-sensitive rates:

(1) A distance-sensitive component shall be assessed for use of the transmission facilities, including any intermediate transmission circuit equipment between the end points of the entrance facilities; and

(2) A non-distance-sensitive component shall be assessed for use of the circuit equipment at the ends of the transmission links.

(d) Telephone companies shall apply only their shortest term special access rates in setting entrance facilities charges.

(e) Except as provided in paragraphs (f), (g), and (h) of this section, and subpart H of this part, telephone companies shall not offer interoffice entrance facilities based on term discounts or volume discounts for multiple DS3s or any other service with higher volume than DS3.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in entrance facilities interoffice charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest price density pricing zone (zone 1), telephone companies may offer term and volume discounts in entrance facilities interoffice charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the

study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in entrance facilities interoffice charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190 and 41191, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 58 FR 48763, Sept. 17, 1993; 59 FR 10304, Mar. 4, 1994; 60 FR 50121, Sept. 28, 1995; 64 FR 51267, Sept. 22, 1999]

§ 69.111 Tandem-switched transport and tandem charge.

(a)(1) Through June 30, 1998, except as provided in paragraph (l) of this section, tandem-switched transport shall consist of two rate elements, a transmission charge and a tandem switching charge. (2) Beginning July 1, 1998, except as provided in paragraph (l) of this section, tandem-switched interoffice transport shall consist of three rate elements as follows:

(i) A per-minute charge for transport of RSP traffic over common transport facilities between the incumbent local exchange carrier's end office and the tandem switching office. This interoffice charge shall be expressed in dollars and cents per interoffice minute of use minutes and shall be assessed upon all purchasers of common transport facilities between the local exchange carrier's end office and the tandem switching office.

(ii) A per-minute tandem switching interoffice charge. This tandem switching interoffice charge shall be set in accordance with paragraph (g) of this section, excluding multiplexer and dedicated port interoffice costs recovered in accordance with paragraph (l) of this section, and shall be assessed upon all RSPs and other persons that use incumbent local exchange carrier tandem switching facilities.

(iii) A flat-rated charge for interoffice transport of traffic over dedicated transport facilities between the serving wire center and the tandem switching office. This interoffice charge shall be assessed as a charge for dedicated transport facilities provisioned between the serving wire center and the tandem switching office in accordance with §69.112.

(b) [Reserved]

(c) (1) Until June 30, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice

network), calculated using the total actual voice-grade minutes of use, geographically averaged on a study-area-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(ii) In study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport charges described in paragraph (a)(1) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use. Tandem-switched transport transmission charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(2) Beginning July 1, 1998:

(i) Except in study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport interoffice charges described in paragraph (a)(2)(i) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual voice-grade interoffice minutes of use, geographically averaged on a study-area-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use, including the additional revenue requirement assigned pursuant to §69.101(c). Tandem-switched transport transmission interoffice charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(ii) In study areas where the incumbent local exchange carrier has implemented density pricing zones as described in section 69.123, per-minute common transport interoffice charges described in paragraph (a)(2)(i) of this section shall be presumed reasonable if the incumbent local exchange carrier bases the charges on a weighted per-minute equivalent of direct-trunked transport DS1 and DS3 rates that reflects the relative number of DS1 and DS3 circuits used in the tandem to end office links (or a surrogate based on the proportion of copper and fiber facilities in the interoffice network), calculated using the total actual interoffice voice-grade minutes of use, averaged on a zone-wide basis, that the incumbent local exchange carrier experiences based on the prior year's annual use, including the additional revenue requirement assigned pursuant to §69.101(c). Tandem-switched transport transmission interoffice charges that are not presumed reasonable shall be suspended and investigated absent a substantial cause showing by the incumbent local exchange carrier.

(d)(1) Through June 30, 1998, the tandem-switched transport transmission charges may be distance-sensitive. Distance shall be measured as airline distance between the serving wire center and the end office, unless the customer has ordered tandem-switched transport between the tandem office and the end office, in which case distance shall be measured as airline distance between the tandem office and the end office.

(2) Beginning July 1, 1998, the per-minute charge for transport of traffic over common transport facilities described in paragraph (a)(2)(i) of this section may be distance-sensitive. Distance shall be measured as airline distance between the tandem switching office and the end office.

(e)(1) Through June 30, 1998, if the telephone company employs distance-sensitive rates:

(i) A distance-sensitive component shall be assessed for use of the transmission facilities, including intermediate transmission circuit equipment between the end points of the interoffice circuit; and

(ii) A non-distance-sensitive component shall be assessed for use of the circuit equipment at the ends of the interoffice transmission links.

(2) Beginning July 1, 1998, if the telephone company employs distance-sensitive rates for transport of traffic over common transport facilities, as described in paragraph (a)(2)(i) of this section:

(i) A distance-sensitive interoffice component shall be assessed for use of the common transport facilities, including intermediate transmission circuit equipment between the end office and tandem switching office; and

(ii) A non-distance-sensitive interoffice component shall be assessed for use of the circuit equipment at the ends of the interoffice transmission links.

(f) [Reserved]

(g)(1) The tandem switching interoffice charge imposed pursuant to paragraphs (a)(1) or (a)(2)(ii) of this section, as applicable, shall be set to recover twenty percent of the annual part 69 interstate tandem interoffice revenue requirement plus one third of the portion of the tandem switching interoffice revenue requirement being recovered through the interconnection charge recovered by §§69.124, 69.153, and 69.155, excluding multiplexer and dedicated port interoffice costs recovered in accordance with paragraph (l) of this section.

(2) Beginning January 1, 1999, the tandem switching interoffice charge imposed pursuant to paragraph (a)(2)(ii) of this section shall be set to recover the amount prescribed in paragraph (g)(1) of this section plus one half of the remaining portion of the tandem switching interoffice revenue requirement then being recovered through the interconnection charge recovered by §§69.124, 69.153, and 69.155, excluding multiplexer and dedicated port interoffice costs

recovered in accordance with paragraph (l) of this section.

(3) Beginning January 1, 2000, the tandem switching interoffice charge imposed pursuant to paragraph (a)(2)(ii) of this section shall be set to recover the entire interoffice tandem switching revenue requirement, including that portion formerly recovered through the interconnection charge recovered in §§69.124, 69.153, and 69.155, and excluding multiplexer and dedicated port interoffice costs recovered in accordance with paragraph (l) of this section.

(4) A local exchange carrier that is subject to price cap regulation as that term is defined in §61.3(x) of this chapter shall calculate its tandem switching revenue requirement as used in this paragraph by dividing the tandem switching revenue requirement that was included in the original interconnection charge by the original interconnection charge, and then multiplying this result by the annual revenues recovered through the interconnection charge, described in §69.124, as of June 30, 1997. A local exchange carrier that is subject to price cap regulation as that term is defined in §61.3(x) of this chapter shall then make downward exogenous adjustments to the service band index for the interconnection charge service category (defined in §61.42(e)(2)(vi) of this chapter) and corresponding upward adjustments to the service band index for the tandem-switched transport service category (defined in §61.42(e)(2)(v) of this chapter) at the times and in the amounts prescribed in paragraphs (g)(1) through (g)(3) of this section .

(h) All telephone companies shall provide interoffice tandem-switched transport service.

(i) Except in the situations set forth in paragraphs (j) and (k) of this section, telephone companies may offer term and volume discounts in tandem-switched transport interoffice charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of interoffice switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§61.38(b)(4) and 61.49(k) of this chapter; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(j) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in tandem-switched transport interoffice charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(k) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in tandem-switched transport interoffice charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in

the study area.

(l) In addition to the interoffice charges described in this section, price cap local exchange carriers shall establish separate interoffice charges for multiplexers and dedicated trunk ports used in conjunction with the tandem switch as follows:

(1) Local exchange carriers must establish a traffic-sensitive interoffice charge for DS3/DS1 multiplexers used on the end office side of the tandem switch, assessed on purchasers of common transport to the tandem switch. This charge must be expressed in dollars and cents per interoffice minute of use. The maximum charge shall be calculated by dividing the total costs of the multiplexers on the end office-side of the tandem switch by the annual interoffice minutes of use calculated for purposes of recovery of common transport costs in paragraph (c) of this section. A similar interoffice charge shall be assessed for DS1/voice-grade multiplexing provided on the end-office side of analog tandem switches.

(2)(i) Local exchange carriers must establish a flat-rated interoffice charge for dedicated DS3/DS1 multiplexing on the serving wire center side of the tandem switch provided in conjunction with dedicated DS3 transport service from the serving wire center to the tandem switch. This charge shall be assessed on RSPs purchasing tandem-switched transport in proportion to the number of DS3 trunks provisioned for that RSP between the serving wire center and the tandem-switch.

(ii) Local exchange carriers must establish a flat-rated interoffice charge for dedicated DS1/voice-grade multiplexing provided on the serving wire center side of analog tandem switches. This charge may be assessed on RSPs purchasing tandem-switched transport in proportion to the RSP's transport capacity on the serving wire center side of the tandem.

(3) Price cap local exchange carriers may recover the interoffice costs of dedicated trunk ports on the serving wire center side of the tandem switch only through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

(m) In addition to the charges described in this section, non-price cap local exchange carriers may establish separate interoffice charges for multiplexers and dedicated trunk ports used in conjunction with the tandem switch as follows:

(1)(i) Non-price cap local exchange carriers may establish a flat-rated interoffice charge for dedicated DS3/DS1 multiplexing on the serving wire center side of the tandem switch provided in conjunction with dedicated DS3 transport service from the serving wire center to the tandem switch. This charge shall be assessed on RSPs purchasing tandem-switched transport in proportion to the number of DS3 trunks provisioned for that RSP between the serving wire center and the tandem switch.

(ii) Non-price cap local exchange carriers may establish a flat-rated interoffice charge for dedicated DS1/voice-grade multiplexing provided on the serving wire center side of analog tandem switches. This charge may be assessed on RSPs purchasing tandem-switched transport in

proportion to the RSP's transport capacity on the serving wire center side of the tandem.

(2) Non-price cap local exchange carriers may recover the interoffice costs of dedicated trunk ports on the serving wire center side of the tandem switch through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190, Aug. 3, 1993; 58 FR 48764, Sept. 17, 1993; 60 FR 50121, Sept. 28, 1995; 62 FR 31933, June 11, 1997; 62 FR 40463, July 29, 1997; 62 FR 56132, Oct. 29, 1997; 64 FR 46594, Aug. 26, 1999; 66 FR 59732, Nov. 30, 2001]

§ 69.112 Direct-trunked transport.

(a) A flat-rated direct-trunked transport interoffice charge expressed in dollars and cents per unit of capacity shall be assessed upon all RSPs and other persons that use telephone company direct-trunked transport facilities.

(b)(1) For telephone companies subject to price cap regulation, initial direct-trunked transport interoffice charges based on the interoffice charges for equivalent voice grade, DS1, and DS3 special access services as of September 1, 1992, adjusted for changes in the price cap index calculated for the July 1, 1993 annual filing for telephone companies subject to price cap regulation, generally shall be presumed reasonable if the benchmark defined in §69.108 is satisfied. Direct-trunked transport charges may be distance-sensitive. Distance shall be measured as airline kilometers between customer-designated points.

(2) For telephone companies not subject to price cap regulation, initial direct-trunked transport interoffice charges based on the interoffice charges for equivalent voice grade, DS1, and DS3 special access services generally shall be presumed reasonable if the benchmark defined in §69.108 is satisfied. Direct-trunked transport charges may be distance-sensitive. Distance shall be measured as airline kilometers between customer-designated points.

(c) If the telephone company employs distance-sensitive rates:

(1) A distance-sensitive interoffice component shall be assessed for use of the transmission facilities, including intermediate transmission circuit equipment, between the end points of the circuit; and

(2) A non-distance-sensitive interoffice component shall be assessed for use of the circuit equipment at the ends of the transmission links.

(d) Telephone companies shall apply only their shortest term special access rates in setting direct-trunked transport rates.

(e) Except as provided in paragraphs (f), (g), and (h) of this section, telephone companies shall not offer direct-trunked interoffice transport rates based on term discounts or volume discounts

for multiple DS3s or any other service with higher volume than DS3.

(f) Except in the situations set forth in paragraphs (g) and (h) of this section, telephone companies may offer term and volume discounts in direct-trunked transport interoffice charges within each study area used for the purpose of jurisdictional separations, in which interconnectors have taken either:

(1) At least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1)) in offices in the study area that the telephone company has assigned to the lowest priced density pricing zone (zone 1) under an approved density pricing zone plan as described in §§61.38(b)(4) and 61.49(k) of this section; or

(2) An average of at least 25 DS1-equivalent cross-connects for the transmission of switched traffic per office assigned to the lowest priced density pricing zone (zone 1).

(g) In study areas in which the telephone company has implemented density zone pricing, but no offices have been assigned to the lowest priced density pricing zone (zone 1), telephone companies may offer term and volume discounts in direct-trunked transport interoffice charges within the study area when interconnectors have taken at least 5 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(h) In study areas in which the telephone company has not implemented density zone pricing, telephone companies may offer term and volume discounts in direct-trunked transport interoffice charges when interconnectors have taken at least 100 DS1-equivalent cross-connects for the transmission of switched traffic (as described in §69.121(a)(1) of this chapter) in offices in the study area.

(i) Centralized equal access providers as described in Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, 7 FCC Rcd 7002 (1992), are not required to provide direct-trunked transport service. Telephone companies that do not have measurement and billing capabilities at their end offices are not required to provide direct-trunked transport services at those end offices without measurement and billing capabilities. Telephone companies that are not classified as Class A companies under §32.11 of this chapter are required to provide direct-trunked transport service upon request. All other telephone companies shall provide a direct-trunked transport service.

[57 FR 54720, Nov. 20, 1992, as amended at 58 FR 41190, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 58 FR 48764, Sept. 17, 1993; 60 FR 50121, Sept. 28, 1995]

§ 69.113 Non-premium charges for MTS WATS equivalent services.

(a) Charges that are computed in accordance with this section shall be assessed upon interexchange carriers or other persons that receive access that is not deemed to be premium access as this term is defined in §69.105(b)(1) in lieu of carrier charges that are computed in

accordance with §§69.105, 69.106, 69.118, 69.124, and 69.127.

(b) The non-premium charge for the Carrier Common Line element shall be computed by multiplying the premium charge for such element by .45.

(c) For telephone companies that are not subject to price cap regulation as that term is defined in §61.3(x) of this chapter, the non-premium charge for the Local Switching element shall be computed by multiplying a hypothetical premium charge for such element by .45. The hypothetical premium charge for such element shall be computed by dividing the annual revenue requirement for each element by the sum of the projected access minutes for such period and a number that is computed by multiplying the projected non-premium minutes for such element for such period by .45. For telephone companies that are price cap carriers, the non-premium charge for the Local Switching element shall be computed by multiplying the premium charge for such element by .45. Though June 30, 1993, the non-premium charge shall be computed by multiplying the LS2 charge for such element by .45.

(d) The non-premium charge or charges for the interconnection charge element shall be computed by multiplying the corresponding premium charge or charges by .45.

(e) The non-premium charge for any BSEs in local switching shall be computed by multiplying the premium charge for the corresponding BSEs by .45.

[54 FR 6293, Feb. 9, 1989, as amended at 55 FR 42386, Oct. 19, 1990; 55 FR 50559, Dec. 7, 1990; 56 FR 33881, July 24, 1991; 57 FR 54721, Nov. 20, 1992; 59 FR 10304, Mar. 4, 1994; 64 FR 46594, Aug. 26, 1999]

§ 69.114 Special access.

(a) Appropriate sub-elements shall be established for the use of equipment or facilities that are assigned to the Special Access element for purposes of apportioning interstate net investment, or that are equivalent to such equipment or facilities for companies subject to price cap regulation as that term is defined in §61.3(x) of this chapter.

(b) Interstate charges for all sub-elements shall be designed to produce total annual interstate revenue that is equal to the projected annual interstate revenue requirement for the interstate Special Access element.

(c) Interstate charges for an individual element shall be assessed upon all RSPs that use the equipment or facilities that are included within such sub-element.

(d) Interstate charges for individual sub-elements shall be designed to reflect interstate cost differences among sub-elements in a manner that complies with applicable Commission rules or decisions.

(e) Intrastate charges shall be equal to the interstate charges calculated in this part and shall be

assessed upon all RSPs or end users that use the equipment or facilities that are included within such sub-element.

[48 FR 10358, Mar. 11, 1983, as amended at 48 FR 43019, Sept. 21, 1983. Redesignated at 54 FR 6293, Feb. 9, 1989, as amended at 55 FR 42386, Oct. 19, 1990; 64 FR 46594, Aug. 26, 1999]

§ 69.115 Special access surcharges.

(a) Pending the development of techniques accurately to measure usage of exchange facilities that are interconnected by users with means of interstate or foreign telecommunications, a surcharge that is expressed in dollars and cents per line termination per month shall be assessed upon users that subscribe to private line services or WATS services that are not exempt from assessment pursuant to paragraph (e) of this section.

(b) Such surcharge shall be computed to reflect a reasonable approximation of the carrier usage charges which, assuming non-premium interconnection, would have been paid for average interstate or foreign usage of common lines, end office facilities, and transport facilities, attributable to each Special Access line termination which is not exempt from assessment pursuant to paragraph (e) of this section.

(c) If the association, carrier or carriers that file the tariff are unable to estimate such average usage for a period ending May 31, 1985, the surcharge for such period shall be twenty-five dollars (\$25) per line termination per month. As of June 30, 2000, these rates will remain and be capped at the current levels until June 30, 2005.

(d) A telephone company may propose reasonable and nondiscriminatory end user surcharges, to be filed in its federal access tariffs and to be applied to the use of exchange facilities which are interconnected by users with means of interstate or foreign telecommunication which are not provided by the telephone company, and which are not exempt from assessment pursuant to paragraph (e) of this section. Telephone companies which wish to avail themselves of this option must undertake to use reasonable efforts to identify such means of interstate or foreign telecommunication, and to assess end user surcharges in a reasonable and nondiscriminatory manner.

(e) No special access surcharges shall be assessed for any of the following terminations:

(1) The open end termination in a telephone company switch of an FX line, including CCSA and CCSA-equivalent ONALs;

(2) Any termination of an analog channel that is used for radio or television program transmission;

(3) Any termination of a line that is used for telex service;

(4) Any termination of a line that by nature of its operating characteristics could not make use of

common lines; and

(5) Any termination of a line that is subject to carrier usage charges pursuant to §69.5.

(6) Any termination of a line that the customer certifies to the exchange carrier is not connected to a PBX or other device capable of interconnecting a local exchange subscriber line with the private line or WATS access line.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 43019, Sept. 21, 1983, as amended at 49 FR 7829, Mar. 2, 1984; 51 FR 10841, Mar. 31, 1986; 52 FR 8259, Mar. 17, 1987; 65 FR 38701, June 21, 2000]

§ 69.116 Universal service fund.

Effective August 1, 1988 through December 31, 1997:

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

(b) The charge shall be computed by the association on a semi-annual basis by dividing one-twelfth of the projected annual Universal Service Fund revenue requirement by the total number of common lines presubscribed to interexchange carriers defined in §69.116(a). Beginning on April 1, 1989, the association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to §69.603(c).

(c) Telephone companies shall provide the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange carrier serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and December 30 of each year, except for the first such submission, containing presubscribed common line data calculated as of December 31, 1987, which shall be filed on August 1, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed on December 30 shall be calculated as of June 30 of the same year.

[53 FR 28396, July 28, 1988, as amended at 54 FR 50624, Dec. 8, 1989; 62 FR 32962, June 17, 1997]

§ 69.117 Lifeline assistance.

Effective August 1, 1988 through December 31, 1997

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

(b) The charge shall be computed by the association on a semi-annual basis by dividing the sum of one-twelfth of the projected annual Lifeline Assistance revenue requirement and one-twelfth of the projected annual revenue requirement calculated by all telephone companies pursuant to §69.104(l) by the number of common lines presubscribed to interexchange carriers defined in §69.117(a). Beginning on April 1, 1989, the association shall bill and collect the charge, and disburse associated revenue, on a monthly basis pursuant to §69.603(d).

(c) Telephone companies shall provide to the association the data necessary to compute the charge. These data shall include the number of presubscribed common lines in each study area and the number of those lines associated with each interexchange carrier serving that study area. In a study area served by a single interexchange carrier, all common lines shall be considered as presubscribed to that interexchange carrier. Information concerning presubscribed common lines shall be filed with the association on June 30 and December 30 of each year, except for the first such submission, containing presubscribed common line data calculated as of December 31, 1987, which shall be filed on August 1, 1988. Presubscribed common line data filed on June 30 shall be calculated as of December 31 of the preceding year, and presubscribed common line data filed on December 30 shall be calculated as of June 30 of the same year.

[53 FR 28396, July 28, 1988, as amended at 54 FR 50624, Dec. 8, 1989; 62 FR 32962, June 17, 1997]

§ 69.118 Traffic sensitive switched services.

Notwithstanding §§69.4(b), 69.106, 69.109, 69.110, 69.111, 69.112, and 69.124, telephone companies subject to the BOC ONA Order, 4 FCC Rcd 1 (1988) shall, and other telephone companies may, establish approved Basic Service Elements as provided in Amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Sub-elements for Open Network Architecture, Report and Order, 6 FCC Rcd 4524 (1991) and 800 data base sub-elements, as provided in Provision of Access for 800 Service, 8 FCC Rcd ____, CC Docket 86-10, FCC 93-53 (1993). Moreover, all customers that use basic 800 database service shall be assessed a charge that is expressed in dollars and cents per query. Telephone companies shall take into account revenues from the relevant Basic Service Element or Elements and 800 Database Service Elements in computing rates for the Local Switching, Entrance Facilities, Tandem-Switched Transport, Direct-Trunked Transport, Interconnection Charge, and/or Information elements.

[58 FR 7868, Feb. 10, 1993]

§ 69.119 Basic service element expedited approval process.

The rules for filing comments and reply comments on requests for expedited approval of new basic service elements are those indicated in §1.45 of the rules, except as specified otherwise.

[56 FR 33881, July 24, 1991]

§ 69.120 Line information database.

(a) An interoffice charge that is expressed in dollars and cents per query shall be assessed upon all carriers or RSPs that access validation information from a local exchange carrier database to recover the interoffice costs of:

(1) The transmission facilities between the local exchange carrier's signalling transfer point and the database; and

(2) The signalling transfer point facilities dedicated to the termination of the transmission facilities connecting the database to the exchange carrier's signalling network.

(b) An interoffice charge that is expressed in dollars and cents per query shall be assessed upon all carriers or RSPs that access validation information from a local exchange carrier line information database to recover the interoffice costs of the database.

[57 FR 24380, June 9, 1992]

§ 69.121 Connection charges for expanded interconnection.

(a) Appropriate connection charge sub-elements shall be established for the use of equipment and facilities that are associated with offerings of expanded interconnection for special access and switched transport services, as defined in part 64, subpart N of this chapter. To the extent that the same equipment and facilities are used to provide expanded interconnection for both special access and switched transport, the same connection charge sub-elements shall be used.

(1) A cross-connect sub-element shall be established for charges associated with the cross-connect cable and associated facilities connecting the equipment owned by or dedicated to the use of the interconnector with the telephone company's equipment and facilities used to provide interstate special or inter-carrier services. Charges for the cross-connect sub-element shall not be deaveraged within a study area that is used for purposes of jurisdictional separations.

(2) Charges for sub-elements associated with physical collocation or virtual collocation, other than the sub-element described in paragraph (a)(1) of this section and sub-elements recovering the cost of the virtual collocation equipment described in §64.1401(e)(1) of this chapter, may reasonably differ in different central offices, notwithstanding §69.3(e)(7).

(b) Connection charge sub-elements shall be computed based upon the costs associated with the

equipment and facilities that are included in such sub-elements, including no more than a just and reasonable portion of the telephone company's overhead costs.

(c) Connection charge sub-elements shall be assessed upon all interconnectors that use the equipment or facilities that are included in such sub-elements.

[57 FR 54332, Nov. 18, 1992, as amended by 58 FR 48764, Sept. 17, 1993; 59 FR 38930, Aug. 1, 1994]

§ 69.123 Density pricing zones for special access and switched transport.

(a)(1) Incumbent local exchange carriers not subject to price cap regulation may establish any number of density zones within a study area that is used for purposes of jurisdictional separations, provided that each zone, except the highest-cost zone, accounts for at least 15 percent of that carrier's special access and transport revenues within that study area, calculated pursuant to the methodology set forth in §69.725.

(2) Such a system of pricing zones shall be designed to reasonably reflect cost-related characteristics, such as the density of total interoffice traffic in central offices located in the respective zones.

(3) Non-price cap incumbent local exchange carriers may establish only one set of density pricing zones within each study area, to be used for the pricing of both special and inter-carrier services pursuant to paragraphs (c) and (d) of this section.

(b)(1) Incumbent local exchange carriers subject to price cap regulation may establish any number of density zones within a study area that is used for purposes of jurisdictional separations, provided that each zone, except the highest-cost zone, accounts for at least 15 percent of that carrier's trunking basket revenues within that study area, calculated pursuant to the methodology set forth in §69.725.

(2) Price cap incumbent local exchange carriers may establish only one set of density pricing zones within each study area, to be used for the pricing of all services within the trunking basket for which zone density pricing is permitted.

(3) An inter-carrier service sub-element for which zone density pricing is permitted shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(4) An inter-carrier service sub-element for which zone density pricing is permitted which is provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains one of the locations between which the service is offered.

(c) Notwithstanding §69.3(e)(7), in study areas in which a telephone company offers a cross-connect, as described in §69.121(a)(1), for the transmission of interstate special access traffic,

telephone companies may charge rates for interstate special access sub-elements of DS1, DS3, and such other interstate special access services as the Commission may designate, that differ depending on the zone in which the service is offered, provided that the charges for any such service shall not be deaveraged within any such zone.

(1) An interstate special access service sub-element shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) An interstate special access service sub-element provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains one of the locations between which the service is offered.

(d) Notwithstanding §69.3(e)(7), in study areas in which a telephone company offers a cross-connect, as described in §69.121(a)(1), for the transmission of interoffice switched traffic, or is using collocated facilities to interconnect with telephone company interoffice switched transport services, telephone companies may charge rates for sub-elements of direct-trunked transport, tandem-switched transport, entrance facilities, and dedicated signaling transport that differ depending on the zone in which the service is offered, provided that the charge for any such service shall not be deaveraged within any such zone.

(1) A switched transport service sub-element shall be deemed to be offered in the zone that contains the telephone company location from which the service is provided.

(2) A switched transport service sub-element provided to a customer between telephone company locations shall be deemed to be offered in the highest priced zone that contains either of the locations between which the service is offered.

(e)(1) Telephone companies not subject to price cap regulation may charge a rate for each service in the highest priced zone that exceeds the rate for the same service in the lowest priced zone by no more than fifteen percent of the rate for the service in the lowest priced zone during the period from the date that the zones are initially established through the following June 30. The difference between the rates for any such service in the highest priced zone and the lowest priced zone in a study area, measured as a percentage of the rate for the service in the lowest priced zone, may increase by no more than an additional fifteen percentage points in each succeeding year, measured from the rate differential in effect on the last day of the preceding tariff year.

(2) Notwithstanding §69.3(e)(7), incumbent local exchange carriers subject to price cap regulation may charge different rates for services in different zones pursuant to §61.47(f) of this chapter, provided that the charges for any such service are not deaveraged within any such zone.

(f)(1) An incumbent local exchange carrier that establishes density pricing zones under this section must reallocate additional amounts recovered under the interconnection charge prescribed in §69.124 of this subpart to facilities-based transport rates, to reflect the higher costs of serving lower density areas. Each incumbent local exchange carrier must reallocate costs from the interexchange charge each time it increases the ratio between the prices in its lowest-cost zone

and any other zone in that study area.

(2) Any incumbent local exchange carrier that has already deaveraged its rates on January 1, 1998 must reallocate an amount equivalent to that described in paragraph (f)(1) of this section from the interconnection charge prescribed in §69.124 to its transport services.

(3) Price cap local exchange carriers shall reassign to direct-trunked transport and tandem-switched transport categories or subcategories interconnection charge amounts reallocated under paragraph (f)(1) or (f)(2) of this section in a manner that reflects the way density pricing zones are being implemented by the incumbent local exchange carrier.

[57 FR 54333, Nov. 18, 1992, as amended by 58 FR 48764, Sept. 17, 1993; 62 FR 31935, June 11, 1997; 64 FR 51267, Sept. 22, 1999; 69 FR 25336, May 6, 2004]

Effective Date Note: At 69 FR 25336, May 6, 2004, §69.123 was amended by revising paragraphs (a)(1), (c), and (d) introductory text and by removing and reserving paragraph (a)(2). These paragraphs contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 69.124 Interconnection charge.

(a) Until December 31, 2001, local exchange carriers not subject to price cap regulation shall assess an interconnection charge expressed in dollars and cents per access minute upon all interexchange carriers and upon all other persons using the telephone company switched access network.

(b) If the use made of the local exchange carrier's switched access network includes the local switch, but not local transport, the interconnection charge assessed pursuant to paragraph (a) of this section shall be computed by subtracting entrance facilities, tandem-switched transport, direct-trunked transport, and dedicated signalling transport revenues, as well as any interconnection charge revenues that the local exchange carrier anticipates will be reassigned to other, facilities-based rate elements in the future, from the part 69 transport revenue requirement, and dividing by the total interstate local switching minutes.

(c) If the use made of the local exchange carrier's switched access network includes local transport, the interconnection charge to be assessed pursuant to paragraph (a) of this section shall be computed by dividing any interconnection charge revenues that the local exchange carrier anticipates will be reassigned to other, facilities-based rate elements in the future by the total interstate local transport minutes, and adding thereto the per minute amount calculated pursuant to paragraph (b) of this section.

[62 FR 66030, Dec. 17, 1997, as amended at 66 FR 59732, Nov. 30, 2001]

§ 69.125 Dedicated signalling transport.

(a) Dedicated signalling transport shall consist of two elements, an interoffice signalling link charge and an interoffice signalling transfer point (STP) port termination charge.

(b)(1) A flat-rated signalling link interoffice charge expressed in dollars and cents per unit of capacity shall be assessed upon all RSPs and other persons that use facilities between a RSP or other person's common channel signalling network and a telephone company signalling transfer point or equivalent facilities offered by a telephone company. Signalling link charges may be distance-sensitive. Distance shall be measured as airline kilometers between the signalling point of interconnection of the RSP's or other person's common channel signalling network and the telephone company's signalling transfer point.

(2) Interoffice Signalling link rates will generally be presumed reasonable if they are based on the interoffice charges for equivalent interstate special access services, including the additional revenue requirement assigned pursuant to §69.101(c).

(c) A flat-rated STP port termination interoffice charge expressed in dollars and cents per interoffice port shall be assessed upon all RSPs and other persons that use dedicated signalling transport.

[57 FR 54721, Nov. 20, 1992, as amended at 58 FR 41191, Aug. 3, 1993; 58 FR 44950, Aug. 25, 1993; 62 FR 31935, June 11, 1997]

§ 69.126 Nonrecurring charges.

Incumbent local exchange carriers shall not assess any nonrecurring charges for service connection when a RSP converts trunks from tandem-switched transport to direct-trunked transport or when a RSP orders the disconnection of over-provisioned trunks, until six months after the effective date of the tariffs eliminating the unitary pricing option for tandem-switched transport.

[62 FR 31935, June 11, 1997]

§ 69.127 Transitional Equal Charge Rule.

The transport rate structure in effect August 1, 1991, shall be retained until the tariffs filed pursuant to the Report and Order in Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, 7 FCC Rcd 7006 (1992) become effective.

[57 FR 54722, Nov. 20, 1992]

§ 69.128 Billing name and address.

Appropriate sub-elements shall be established for the use of interoffice equipment or facilities that are associated with offerings of billing name and address.

[58 FR 36145, July 6, 1993]

§ 69.129 Signalling for tandem switching.

A charge that is expressed in dollars and cents shall be assessed upon the purchasing entity by a local telephone company for provision of interoffice signalling for tandem switching.

[59 FR 32930, June 27, 1994]

§ 69.130 Line port costs in excess of basic analog service.

To the extent that the costs of ISDN line ports, and line ports associated with other services, exceed the costs of a line port used for basic, analog service, non-price cap local exchange carriers may recover the difference through a separate monthly end-user charge, provided that no portion of such excess cost may be recovered through other common line charges, or through Interstate Common Line Support.

[66 FR 59732, Nov. 30, 2001]

§ 69.131 Universal service end user charges.

To the extent the company makes contributions to the Universal Service Support Mechanisms pursuant to §§54.706 and 54.709 of this chapter and the non-price cap local exchange carrier seeks to recover some or all of the amount of such contribution, the non-price cap local exchange carrier shall recover those contributions through a charge to end users other than Lifeline users. The charge to recover these contributions is not part of any other element established pursuant to part 69. Such a charge may be assessed on a per-line basis or as a percentage of interstate retail revenues, and at the option of the local exchange carrier it may be combined for billing purposes with other end user retail rate elements. A non-price cap local exchange carrier opting to assess the Universal Service end-user rate element on a per-line basis may apply that charge using the “equivalency” relationships established for the multi-line business PICC for Primary Rate ISDN service, as per §69.153(d), and for Centrex lines, as per §69.153(e).

[66 FR 59732, Nov. 30, 2001]

Subpart C—Computation of Charges for Price Cap Local Exchange Carriers

§ 69.151 Applicability.

(a) This subpart shall apply only to telephone companies subject to the price cap regulations set forth in part 61 of this chapter.

(b) As of XXXXXXXX, XX, XXXX for price cap local exchange carriers, each local exchange carrier shall compare its unitary transport revenues calculated utilizing rates developed in accordance with this part with the interoffice transport revenue requirement calculated pursuant to

this part. The revenue requirement difference, if any, not recovered by the revenues shall be apportioned among the Tandem-Switched Transport and Tandem sub-elements pursuant to §§69.111(i) and (iii). Revised transport rates for the Tandem-Switched Transport and Tandem sub-element shall be calculated to include this additional revenue requirement allocation.

§ 69.152 End user common line for price cap local exchange carriers.

(a) A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charge shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) [Reserved]

(c) The charge for each subscriber line associated with a public telephone shall be equal to the monthly charge computed in accordance with paragraph (k) of this section.

(d)(1) Except as provided in §69.152(d)(1)(iii), beginning July 1, 2000, in a study area that does not have deaveraged End User Common Line Charges, the maximum monthly charge for each primary residential or single-line business local exchange service subscriber line shall be the lesser of:

(i) The Average Price Cap CMT Revenue per Line month as defined in §61.3(d) of this chapter; or

(ii) The following:

(A) On July 1, 2000, \$4.35.

(B) On July 1, 2001, \$5.00.

(c) On July 1, 2002, \$6.00.

(D) On July 1, 2003, \$6.50.

(iii) As of XXXXXXXX, XX, XXXX, a price cap carrier shall calculate its annualized traffic sensitive interoffice costs (non-common line) in accordance with the procedures set forth in this part. These costs shall be compared to the current (non-unitary) annual intercarrier service revenues as of the same date. If the current (non-unitary) intercarrier service revenues are lower than the interoffice traffic sensitive costs calculated pursuant to this part, then the interoffice cost in excess of the intercarrier service revenues will be added to the End User Common Line Charge computed in §§69.152(d)(1)(i) or (ii). Such recovery shall not cause the End User Common Line Charge under this section to exceed the maximum charge of \$6.50, as adjusted pursuant to

§69.152(d)(2).

(2) In the event that GDP-PI exceeds 6.5% or is less than 0%, the maximum monthly charge in paragraph (d)(1)(ii) of this section and the cap will be adjusted pursuant to §61.45(b)(1)(iii) of this chapter.

(e)(1) Except as provided in §69.152(e)(1)(iii), beginning July 1, 2000, in a study area that does not have deaveraged End User Common Line Charges, the maximum monthly charge for each non-primary residential local exchange service subscriber line shall be the lesser of:

(i) \$7.00; or

(ii) The greater of:

(A) The rate as of June 30, 2000 less reductions needed to ensure over recovery of CMT Revenues does not occur; or

(B) The Average Price Cap CMT Revenue per Line month as defined in §61.3(d) of this chapter.

(iii) Any remaining interoffice cost in excess of the intercarrier service revenues, costs not recovered pursuant to §69.152(d)(1)(iii), will be added to the End User Common Line Charge computed in §§69.152(e)(1)(i) or (ii). Such recovery shall not cause the End User Common Line Charge under this section to exceed the maximum charge calculated in §§69.152(e)(i) or (ii), as adjusted pursuant to §69.152(e)(2).

(2) In the event that GDP-PI is greater than 6.5% or is less than 0%, the maximum monthly charge in paragraph (e)(1)(i) of this section and the cap will be adjusted pursuant to §61.45(b)(1)(iii) of this chapter.

(3) Where the local exchange carrier provides a residential line to another carrier so that the other carrier may resell that residential line to a residence that already receives a primary residential line, the local exchange carrier may collect the non-primary residential charge described in paragraph (e) of this section from the other carrier.

(f) The charge for each primary residential local exchange service subscriber line shall be the same as the charge for each single-line business local exchange service subscriber line.

(g) A line shall be deemed to be a residential subscriber line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff.

(h) Effective July 1, 1999, only one of the residential subscriber lines a price cap local exchange carrier provides to a location shall be deemed to be a primary residential line.

(1) Effective July 1, 1999, for purposes of §69.152(h) of this chapter, “residential subscriber line” includes residential lines that a price cap local exchange carrier provides to a competitive local

exchange carrier that resells the line and on which the price cap local exchange carrier may assess intercarrier charges.

(2) Effective July 1, 1999, if a customer subscribes to residential lines from a price cap local exchange carrier and at least one reseller of the price cap local exchange carrier's lines, the line sold by the price cap local exchange carrier shall be the primary line, except that if a resold price cap LEC line is already the primary line, the resold line will remain the primary line should a price cap local exchange carrier subsequently sell an additional line to that residence.

(i) A line shall be deemed to be a single-line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(j) No charge shall be assessed for any WATS access line.

(k)(1) Except as provided in §69.152(k)(1)(iii), beginning on July 1, 2000, for any study area that does not have deaveraged End User Common Line charges and in the absence of voluntary reductions, the maximum monthly End User Common Line Charge for multi-line business lines will be the lesser of:

(i) \$9.20; or

(ii) The greater of:

(A) The rate as of June 30, 2000, less reductions needed to ensure over recovery of CMT Revenues does not occur; or

(B) The Average Price Cap CMT Revenue per Line month as defined in §61.3(d) of this chapter.

Note to paragraph (k)(1):

Except when the local exchange carrier reduces the rate through voluntary reductions, the multi-line business End User Common Line charge will be frozen until the study area's multi-line business PICC and CCL charge are eliminated.

(iii) Any remaining interoffice cost in excess of the intercarrier service revenues, costs not recovered pursuant to §§69.152(d)(1)(iii) and 69.152(e)(1)(iii), will be added to the End User Common Line Charge computed in §§69.152(k)(1)(i) or (ii). Such recovery shall not cause the End User Common Line Charge under this section to exceed the maximum charge calculated in §§69.152(k)(i) or (ii), as adjusted pursuant to §69.152(k)(2).

(2) In the event that GDP-PI is greater than 6.5% or is less than 0%, the maximum monthly charge in paragraph (k)(1)(i) of this section and the cap will be adjusted pursuant to §61.45(b)(1)(iii) of this chapter.

(l)(1) Beginning January 1, 1998, local exchange carrier shall assess no more than one End User Common Line charge as calculated under the applicable method under paragraph (e) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) Local exchange carriers shall assess no more than five End User Common Line charges as calculated under paragraph (k) of this section for Primary Rate Interface ISDN service.

(m) In the event the local exchange carrier charges less than the maximum End User Common Line charge for any subscriber lines, the local exchange carrier may not recover the difference between the amount collected and the maximum from carrier common line charges or PICCs.

(n)–(p) [Reserved]

(q) *End User Common Line Charge De-Averaging.* Beginning on July 1, 2000, local exchange carriers may geographically deaverage End User Common Line charges subject to the following conditions:

(1) In order for a price cap local exchange carrier to be allowed to de-average End User Common Line charges within a study area, the price cap local exchange carrier must have state Commission approved geographically deaveraged rates for UNE loops within that study area. Except where a LEC geographically deaverages through voluntary reductions, before a price cap local exchange carrier may geographically deaverage its End User Common Line rates, its Originating and Terminating CCL and Multi-line Business PICC rates in that study area must equal \$0.00.

(2) All geographic deaveraging of End User Common Line charges by customer class within a study area must be according to the state commission-approved UNE loop zone. Solely for the purposes of determining interstate subscriber line charges and the interstate access universal service support described in §§54.806 and 54.807 of this chapter, a price cap local exchange carrier may not have more than four geographic End User Common Line Charge/Universal Service zones absent a review by the Commission. Where a price cap local exchange carrier has more than four state-created UNE zones and the Commission has not approved use of additional zones, the price cap local exchange carrier will determine, at its discretion, which state-created UNE zones to consolidate so that it has no more than four zones for the purpose of determining interstate subscriber line charges and interstate access universal service support.

(3) Within a given zone, Multi-line Business End User Common Line rates cannot fall below Primary Residential and Single-Line Business or Non-Primary Residential End User Common Line charges. Non-Primary End User Common Line charges cannot fall below Primary Residential and Single-Line Business charges.

(4) For any given class of customer in any given zone, the Zone deaveraged End User Common Line Charge in that zone must be greater than or equal to the Zone deaveraged End User Common Line charge in the zone with the next lower Zone Average Revenue Per Line.

(5) The sum of all revenues per month that would be generated from all deaveraged End User

Common Line charges in all zones within a study area, plus Interstate Access Universal Service Support per Line month (as defined in §54.807 of this chapter) for the applicable customer classes and zones receiving such support multiplied by corresponding base period lines, divided by the number of base period lines in that study area cannot exceed Average Price Cap CMT Revenue per Line month as defined in §61.3(d) of this chapter for that study area. In addition, the sum of revenues per month that would be generated from all deaveraged End User Common Line charges in all End User Common Line charge deaveraging zones within a study area plus revenues per month from all End User Common Line charge, multi-line business PICC and CCL charges from study areas within that study area that have not geographically deaveraged End User Common Line charges plus the sum of all Interstate Access Universal Service Support per Line month (as defined in §54.807 of this chapter) for the applicable customer classes and zones receiving such support, multiplied by the corresponding base period lines for the applicable customer classes and zones within the study area, divided by the number of total base period lines in the study area cannot exceed Average Price Cap CMT Revenue per Line month as defined in §61.3(d) of this chapter for the study area.

(6) *Maximum charge.* The maximum zone deaveraged End User Common Line Charge that may be charged in any zone is the applicable cap specified in §69.152(d)(1), §69.152(e)(1)(i) or §69.152(k)(1)(i) Zone Average Revenue Per Line is the Average Price Cap CMT Revenue per Line month allocated to a particular state-defined zone used for deaveraging of UNE loop prices. The zone average revenue per line is computed pursuant to §61.3 (zz) of this chapter.

(7) *Minimum charge.* Except where a local exchange carrier chooses to lower the deaveraged End User Common Line charge through voluntary reductions, the minimum zone deaveraged End User Common Line charge in any zone in a study area is at least the Minimum End User Common Line charge. Minimum End User Common Line charge is Zone Average Revenue Per Line for the zone with the lowest Zone Average Revenue Per Line in that study area plus an amount per line calculated to recover the difference between Interstate Access Universal Service Support Per Line (as defined in §54.807 of this chapter) multiplied by base period lines for the applicable customer class and zones receiving such support and Study Area Above Benchmark Revenues, first from Zone 1 until the End User Common Line charges in Zone 1 equal the End User Common Line charges in Zone 2, and then from lines in Zones 1 and 2 equally until the End User Common Line charges in those Zones reach Zone 3 (with all End User Common Line charges subject to the applicable residential and multi-line business lines nominal caps).

(i) For the purposes of this part, “Study Area Above Benchmark Revenues” is the sum of all Zone Above Benchmark Revenues.

(ii) For the purposes of this part, “Zone Above Benchmark Revenues” is calculated as follows:

Zone Above Benchmark Revenues is the sum of Zone Above Benchmark Revenues for Residential and Single-line Business lines and Zone Above Benchmark Revenues for Multi-line Business lines. Zone Above Benchmark Revenues for Residential and Single-line Business lines is, within each zone, (Zone Average Revenue Per Line minus \$7.00) multiplied by all eligible telecommunications carrier Base Period Residential and Single-line Business lines times 12. If negative, the Zone Above Benchmark Revenues for Residential and Single-line Business lines for

the zone is zero. Zone Above Benchmark Revenues for Multi-line Business lines is, within each zone,

(Zone Average Revenue Per Line minus \$9.20) multiplied by all eligible telecommunications carrier zone Base Period Multi-line Business lines times 12. If negative, the Zone Above Benchmark Revenues for Multi-line Business lines for the zone is zero.

(8) *Voluntary Reductions*. A “Voluntary Reduction” is one in which the local exchange carrier reduces prices other than through offset of net increases in End User Common Line charge revenues or Interstate Access Universal Service support received pursuant to §54.807 of this chapter, or through increases in other zone deaveraged End User Common Line charges.

[65 FR 38701, June 21, 2000; 65 FR 57744, Sept. 26, 2000]

§ 69.153 Presubscribed interexchange carrier charge (PICC).

(a) A charge expressed in dollars and cents per line may be assessed upon the Multi-line business subscriber’s presubscribed interexchange carrier to recover revenues totaling Average Price Cap CMT Revenues per Line month times the number of base period lines less revenues recovered through the End User Common Line charge established under §69.152 and Interstate Access Universal Service Support Per Line (as defined in §54.807 of this chapter) multiplied by base period lines for the applicable customer class and zones receiving such support, up to a maximum of \$4.31 per line per month. In the event the ceilings on the PICC prevent the PICC from recovering all the residual common line/marketing and residual interconnection charge revenues, the PICC shall recover all residual common line/marketing revenues before it recovers residual interconnection charge revenues.

(b) If an end-user customer does not have a presubscribed interexchange carrier, the local exchange carrier may collect the PICC directly from the end user.

(c) [Reserved]

(d) Local exchange carriers shall assess no more than five PICCs as calculated under paragraph (a) of this section for Primary Rate Interface ISDN service.

(e) The maximum monthly PICC for Centrex lines shall be one-ninth of the maximum charge determined under paragraph (a) of this section, except that if a Centrex customer has fewer than nine lines, the maximum monthly PICC for those lines shall be the maximum charge determined under paragraph (a) of this section divided by the customer’s number of Centrex lines.

(f) The PICC shall not be applicable to any payphone lines.

(g)–(h) [Reserved]

[65 FR 38703, June 21, 2000; 65 FR 57744, Sept. 26, 2000, as amended at 68 FR 43329, July 22,

2003]

§ 69.154 Per-minute carrier common line charge.

(a) Local exchange carriers may recover a per-minute carrier common line charge from interexchange carriers, collected on originating access minutes and calculated using the weighting method set forth in paragraph (c) of this section. The maximum such charge shall be the lower of:

(1) The per-minute rate using base period demand that would recover the maximum allowable carrier common line revenue as defined in §61.46(d) of this chapter; or

(2) The sum of the local switching, carrier common line and interconnection charge charges assessed on originating minutes on December 31, 1997, minus the local switching charges assessed on originating minutes.

(b) To the extent that paragraph (a) of this section does not recover from interexchange carriers all permitted carrier common line revenue, the excess may be collected through a per-minute charge on terminating access calculated using the weighting method set forth in paragraph (c) of this section.

(c) For each Carrier Common Line access element tariff, the premium originating Carrier Common Line charge shall be set at a level that recovers revenues allowed under paragraphs (a) and (b) of this section. The non-premium charges shall be equal to .45 multiplied by the premium charges.

[62 FR 31935, June 11, 1997, as amended at 65 FR 38703, June 21, 2000]

§ 69.155 [Reserved]

§ 69.156 Marketing expenses.

Effective July 1, 2000, the marketing expenses formerly allocated to the common line and traffic sensitive baskets, and the switched services within the trunking basket pursuant to §32.6610 of this chapter and §69.403 will now be recovered in the CMT basket created pursuant to §61.42(d)(1) of this chapter. These marketing expenses will be recovered through the elements outlined in §§69.152, 69.153 and 69.154.

[65 FR 38703, June 21, 2000]

§ 69.157 Line port costs in excess of basic, analog service.

To the extent that the costs of ISDN line ports, and line ports associated with other services, exceed the costs of a line port used for basic, analog service, local exchange carriers may recover the difference through a separate monthly end-user charge. As of June 30, 2000, these rates will

be capped until June 30, 2005.

[65 FR 38704, June 21, 2000; 65 FR 57744, Sept. 26, 2000]

§ 69.158 Universal service end user charges.

To the extent the company makes contributions to the Universal Service Support Mechanisms pursuant to §§54.706 and 54.709 of this chapter and the local exchange carrier seeks to recover some or all of the amount of such contribution, the local exchange carrier shall recover those contributions through a charge to end users other than Lifeline users. These contributions are not a part of any price cap baskets, and the charge to recover these contributions is not part of any other element established pursuant to part 69. Such a charge may be assessed on a per-line basis or as a percentage of interstate retail revenues, and at the option of the local exchange carrier it may be combined for billing purposes with other end user retail rate elements. A local exchange carrier opting to assess the Universal Service end-user rate element on a per-line basis may apply that charge using the “equivalency” relationships established for the multi-line business PICC for Primary Rate ISDN service, as per §69.153(d), and for Centrex lines, as per §69.153(e).

[65 FR 38704, June 21, 2000; 65 FR 57744, Sept. 26, 2000]

§ 69.159 Re-initialization of Price Cap Carrier rates

(a) As of XXXXXXXX, XX, XXXX, price cap carriers shall compute their annualized intercarrier interoffice traffic sensitive service rate levels in accordance with the interoffice cost based procedures set forth in this part (Common Line and Special Access are not included in this calculation).

(b) If the rate levels computed pursuant to §69.159(a) for the price cap carrier are lower than existing traffic sensitive price cap rate levels, then the price cap carrier shall reinitialize its price cap rates at the levels calculated pursuant to §69.159(a). Otherwise, existing price cap traffic sensitive rate levels shall be utilized.

(c) The rates utilized as provided in §69.159(b) shall be applied on a unitary basis to all intercarrier (access and reciprocal compensation) interoffice usage.

Subpart D—Apportionment of Net Investment

Source: 52 FR 37312, Oct. 6, 1987, unless otherwise noted.

§ 69.301 General.

(a) For purposes of computing interoffice or interstate annual revenue requirements for elements net investment as defined in §69.2 (z) shall be apportioned among the interexchange category, the billing and collection category and elements as provided in this subpart. For purposes of this subpart, local transport includes five elements: entrance facilities, direct-trunked transport,

tandem-switched transport, dedicated signaling transport, and the interconnection charge. Expenses shall be apportioned as provided in subpart E of this part.

(b) The End User Common Line and Carrier Common Line elements shall be combined for purposes of this subpart and subpart E of this part. Those elements shall be described collectively as the Common Line element. The Common Line element revenue requirement shall be segregated in accordance with subpart F of this part.

(c) Net investment shall be apportioned to interstate for purposes of determining the interstate Common Line element and Special Access costs to be recovered by local exchange carriers and to develop the total interstate net investment for the purposes specified in §§54.905(e) of this chapter. Otherwise, interoffice net investment apportionments shall be utilized in the calculation of inter-carrier service rate levels.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 54722, Nov. 20, 1992]

§ 69.302 Net investment.

(a) Interoffice or interstate investment in Accounts 2001, 1220 and Class B Rural Telephone Bank Stock booked in Account 1410 shall be apportioned among the interexchange category, billing and collection category and appropriate elements as provided in §§69.303 through 69.309.

(b) Interoffice or interstate investment in Accounts 2002, 2003 and to the extent such inclusions are allowed by this Commission, Account 2005 shall be apportioned on the basis of the total interoffice or interstate investment in Account 2001, Telecommunications Plant in Service.

[52 FR 37312, Oct. 6, 1987, as amended at 54 FR 3456, Jan. 24, 1989; 67 FR 5703, Feb. 6, 2002]

§ 69.303 Information origination/termination equipment (IOT).

Interstate investment in all other IOT shall be apportioned between the Interstate Special Access and Interstate Common Line elements on the basis of the relative number of equivalent lines in use, as provided herein. Each interstate or foreign Special Access Line, excluding lines designated in §69.115(e), shall be counted as one or more equivalent lines where channels are of higher than voice bandwidth, and the number of equivalent lines shall equal the number of voice capacity analog or digital channels to which the higher capacity is equivalent. Local exchange subscriber lines shall be multiplied by the interstate Subscriber Plant Factor to determine the number of equivalent local exchange subscriber lines.

[52 FR 37312, Oct. 6, 1987, as amended at 62 FR 31938, June 11, 1997]

§ 69.304 Subscriber line cable and wire facilities.

(a) Interstate investment in local exchange subscriber lines shall be assigned to the Interstate

Common Line element.

(b) Interstate investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Interstate Special access element.

[52 FR 37312, Oct. 6, 1987, as amended at 62 FR 31938, June 11, 1997]

§ 69.305 Carrier cable and wire facilities (C&WF).

(a) Interoffice or interstate Carrier C&WF that is not used for “origination” or “termination” as defined in §69.2(bb) and §69.2(cc) shall be assigned to the interexchange category.

(b) Interoffice or interstate Carrier C&WF, other than WATS access lines, not assigned pursuant to paragraph (a), (c), or (e) of this section that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be assigned to the Transport elements.

(c) Interoffice or interstate Carrier C&WF that is used to provide transmission between the local exchange carrier’s signalling transfer point and the database shall be assigned to the Line Information Database sub-element at §69.120(a).

(d) All interstate Carrier C&WF that is not apportioned or assigned pursuant to paragraphs (a), (b), (c), and (e) of this section shall be assigned to the Interstate Special Access element.

(e) Interoffice or interstate Carrier C&WF that is used to provide transmission between the local exchange carrier’s signalling transfer point and the local switch shall be assigned to the local switching category.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 24380, June 9, 1992; 58 FR 30995, May 28, 1993; 62 FR 31938, June 11, 1997]

§ 69.306 Central office equipment (COE).

(a) The Separations Manual categories shall be used for purposes of apportioning investment in such equipment except that any Central office equipment attributable to transport shall be assigned to the Transport elements.

(b) Interoffice or interstate COE Category 1 (Operator Systems Equipment) shall be apportioned among the interexchange category and the elements as follows: Category 1 that is used for intercept services shall be assigned to the Switching element. Category 1 that is used for directory assistance shall be assigned to the Information element. Category 1 other than service observation boards that is not assigned to the Information element and is not used for intercept services shall be assigned to the interexchange category. Service observation boards shall be apportioned among the interexchange category, and the Information and Transport elements based on the remaining combined interoffice or interstate investment in COE Category 1, Category 2 and

Category 3.

(c) Interoffice or interstate COE Category 2 (Tandem Switching Equipment) that is deemed to be exchange equipment for purposes of the Modification of Final Judgment in *United States v. Western Electric Co.* shall be assigned to the tandem switching charge sub-element and the interconnection charge element. Interoffice or interstate COE Category 2 which is associated with the signal transfer point function shall be assigned to the switching category. Interoffice or interstate COE Category 2 which is used to provide transmission facilities between the local exchange carrier's signalling transfer point and the database shall be assigned to the Line Information Database sub-element at §69.120(a). All other Interoffice or interstate COE Category 2 shall be assigned to the interexchange category.

(d) Interoffice or interstate COE Category 3 (Switching Equipment) shall be assigned to the Switching element except as provided in paragraph (a) of this section.

(1) For telephone companies subject to price cap regulation set forth in part 61 of this chapter, interstate line-side port costs shall be assigned to the interstate Common Line rate element; and

(2) Beginning January 1, 2002, for non-price cap local exchange carriers, interstate line-side port costs shall be assigned to the interstate Common Line rate element. Such amount shall be determined after any switching support has been removed from the interstate Switching revenue requirement. Non-price cap local exchange carriers may use thirty percent of the interstate Switching revenue requirement, minus any switching support, as a proxy for allocating line port costs to the Common Line category.

(e) Interstate COE Category 4 (Circuit Equipment) shall be apportioned among the interexchange category and the Common Line, Transport, and Special Access elements. COE Category 4 shall be apportioned in the same proportions as the associated Cable and Wireless Facilities; except that any DS1/voice-grade multiplexer investment associated with analog switches and assigned to the transport category by this section shall be reallocated to the switching category. Interoffice COE Category 4 (Transport Circuit Equipment) shall be assigned to the Transport element; except that any interoffice DS1/voice-grade multiplexer investment associated with analog switches and assigned to the transport category by this section shall be reallocated to the switching category.

[52 FR 37312, Oct. 6, 1987, as amended at 57 FR 54722, Nov. 20, 1992; 58 FR 30995, May 28, 1993; 62 FR 31938, June 11, 1997; 66 FR 59732, Nov. 30, 2001]

§ 69.307 General support facilities.

(a) Interoffice or interstate General purpose computer investment used in the provision of the Line Information Database sub-element at §69.120(b) shall be assigned to that sub-element.

(b) Interoffice or interstate General purpose computer investment used in the provision of the

billing name and address element at §69.128 shall be assigned to that element.

(c) (1) Until June 30, 2002, for all local exchange carriers not subject to price cap regulation and for other carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Switching, Information, Transport, and Special Access elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(2) Beginning July 1, 2002, for all local exchange carriers that acquire all of the billing and collection services that they provide to RSPs from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other interstate General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Switching, Information, Transport, and Special Access elements on the basis of interstate Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined. All other interoffice General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Switching, Information and Transport elements on the basis of the interoffice apportionment of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(d) For local exchange carriers subject to price cap regulation and not covered by Section 69.307(c), a portion of General purpose computer investment (Account 2124), investment in Land (Account 2111), Buildings (Account 2121), and Office equipment (Account 2123) shall be apportioned to the billing and collection category on the basis of the Big Three Expense Factors allocator, defined in Section 69.2 of this Part, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining portion of interstate investment in these four accounts together with all other interstate General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Switching, Information, Transport, and Special Access Elements on the basis of interstate portion of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined. The remaining interoffice General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Switching, Information and Transport elements on the basis of the interoffice apportionment of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

(e) Beginning July 1, 2002, for non-price cap local exchange carriers not covered by §69.307(c) (2), a portion of interoffice or interstate General purpose computer investment shall be apportioned to the billing and collection category on the basis of the interoffice or interstate Big Three Expense Factors allocator, defined in §69.2, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining interstate General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Switching,

Information, Transport, and Special Access Elements on the basis of interstate Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined. The remaining interoffice General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Switching, Information and Transport Elements on the basis of the interoffice apportionment of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

[58 FR 30995, May 28, 1993, as amended at 58 FR 36145, July 6, 1993; 62 FR 31939, June 11, 1997; 62 FR 40464, July 29, 1997; 62 FR 65622, Dec. 15, 1997; 66 FR 59732, Nov. 30, 2001]

§ 69.308 [Reserved]

§ 69.309 Other investment.

Interoffice or interstate investment that is not apportioned pursuant to §§69.302 through 69.307 shall be apportioned among the interexchange category, the billing and collection category and elements in the same proportions as the combined interoffice or interstate investment that is apportioned pursuant to §§69.303 through 69.307.

[62 FR 31939, June 11, 1997]

§ 69.310 Capital leases.

Interoffice or interstate Capital Leases in Account 2680 shall be directly assigned to the appropriate interexchange category or elements consistent with the treatment prescribed for similar plant costs or shall be apportioned in the same manner as Account 2001.

Subpart E—Apportionment of Expenses

(a) Expenses shall be apportioned to interstate for purposes of determining the interstate Common Line element and Special Access costs to be recovered by local exchange carriers and to develop the total interstate expenses for the purposes specified in §§54.905(e) of this chapter. Otherwise, interoffice expense apportionments shall be utilized in the calculation of intercarrier service rate levels.

Source: 52 FR 37313, Oct. 6, 1987, unless otherwise noted.

§ 69.401 Direct expenses.

(a) Interoffice or interstate Plant Specific Operations Expenses in Accounts 6110 and 6120 shall be apportioned among the interexchange category, the billing and collection category and

appropriate elements on the following basis:

(1) Account 6110—Apportion on the basis of other investment apportioned pursuant to §69.309.

(2) Account 6120—Apportion on the basis of General and Support Facilities investment pursuant to §69.307.

(b) Interoffice or interstate Plant Specific Operations Expenses in Accounts 6210, 6220, and 6230, shall be apportioned among the interexchange category and elements on the basis of the apportionment of the investment in Accounts 2210, 2220, and 2230, respectively; provided that any expenses associated with DS1/voice-grade multiplexers, to the extent that they are not associated with an analog tandem switch, assigned to the transport category by this paragraph shall be reallocated to the switching category; provided further that any expenses associated with common channel signalling included in Account 6210 shall be assigned to the transport category.

(c) Interoffice or interstate Plant Specific Operations Expenses in Accounts 6310 and 6410 shall be assigned to the appropriate investment category and shall be apportioned among the interexchange category and elements in the same proportions as the total associated investment.

(d) Interoffice or interstate Plant Non Specific Operations Expenses in Accounts 6510 and 6530 shall be apportioned among the interchange category, the billing and collection category, and elements in the same proportions as the combined investment in COE, IOT, and C&WF apportioned to each element and category.

(e) Interoffice or interstate Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.

(f) Interoffice or interstate Plant Non Specific Operations Expenses in Account 6560 shall be apportioned among the interexchange category, the billing and collection category, and elements in the same proportion as the associated investment.

(g) Amortization of embedded customer premises wiring investment shall be deemed to be associated with §69.303(b) IOT investment for purposes of the apportionment described in paragraph (c) of this section.

[52 FR 37313, Oct. 6, 1987, as amended at 62 FR 31939, June 11, 1997]

§ 69.402 Operating taxes (Account 7200).

(a) Interoffice or interstate Federal income taxes, state and local income taxes, and state and local gross receipts or gross earnings taxes that are collected in lieu of a corporate income tax shall be apportioned among the interexchange category, the billing and collection category and all elements based on the approximate net taxable income on which the tax is levied (positive or negative) applicable to each element and category.

(b) All other interoffice or interstate operating taxes shall be apportioned among the interexchange category, the billing and collection category and all elements in the same manner as the investment apportioned to each element and category pursuant to §69.309 Other Investment.

§ 69.403 Marketing expense (Account 6610).

Interoffice or interstate Marketing expense shall be apportioned among the interexchange category and all elements in the same proportions as the combined investment that is apportioned pursuant to §69.309.

§ 69.404 Telephone operator services expenses in Account 6620.

Interoffice or interstate Telephone Operator Services expenses shall be apportioned among the interexchange category, and the Switching and Information elements based on the relative number of interoffice or interstate weighted standard work seconds. For those companies who contract with another company for the provision of these services, the interoffice or interstate expenses incurred shall be directly assigned among the interexchange category and the Switching and Information elements on the basis of the bill rendered for the services provided.

§ 69.405 Published directory expenses in Account 6620.

Interoffice or interstate Published Directory expenses shall be assigned to the Information element.

§ 69.406 Local business office expenses in Account 6620.

(a) Interoffice or interstate Local business office expenses shall be assigned as follows:

(1) Interoffice or interstate End user service order processing expenses attributable to presubscription shall be apportioned among the Common Line, Switching, and Transport elements in the same proportion as the investment apportioned to those elements pursuant to §69.309.

(2) Interstate End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate private line and special access service shall be assigned to the Special Access element.

(3) Interoffice or interstate End user service order processing, payment and collection, and billing inquiry expenses attributable to interstate or intrastate interexchange private line service offered by a RSP shall be assigned to the billing and collection category.

(4) Interoffice or interstate End user service order processing, payment and collection, and billing inquiry expenses attributable to the company's own interstate or intrastate message toll service shall be assigned to the interexchange category. Interoffice or interstate End user service order

processing, payment and collection, and billing inquiry expenses attributable to interstate or intrastate message toll service offered by a RSP shall be assigned to the billing and collection category. Interstate End user payment and collection and billing inquiry expenses attributable to End User Common Line billing shall be assigned to the Common Line element.

(5) Interstate End user service order processing, payment and collection, and billing inquiry expenses attributable to TWX service shall be assigned to the Special Access element.

(6) Interstate RSP service order processing, payment and collection, and billing inquiry expenses attributable to private lines and special access shall be assigned to the Special Access element.

(7) Interoffice or interstate RSP service order processing, payment and collection, and billing inquiry expenses attributable to interoffice or interstate inter-carrier service and message toll, shall be apportioned among the Common Line, Switching and Transport elements in the same proportion as the investment apportioned to those elements pursuant to §69.309.

(8) Interoffice or interstate RSP service order processing, payment and collection, and billing inquiry expenses attributable to billing and collection service shall be assigned to the billing and collection category.

[52 FR 37313, Oct. 6, 1987, as amended at 62 FR 31939, June 11, 1997]

§ 69.407 Revenue accounting expenses in Account 6620.

(a) Interstate Revenue accounting expenses that are attributable to End User Common Line billings shall be assigned to the Common Line element.

(b) Interoffice or interstate Revenue Accounting Expenses that are attributable to inter-carrier billing and collecting expense shall be apportioned among all elements except the Common Line element. Such expenses shall be apportioned in the same proportion as the combined investment in COE, C&WF and IOT apportioned to those elements.

(c) Interoffice or interstate Revenue Accounting Expenses that are attributable to the provision of billing name and address information shall be assigned to the Billing Name and Address element.

(d) All other interoffice or interstate Revenue Accounting Expenses shall be assigned to the billing and collection category.

[52 FR 37313, Oct. 6, 1987, as amended at 58 FR 65671, Dec. 16, 1993]

§ 69.408 All other customer services expenses in Account 6620.

All other interoffice or interstate customer services expenses shall be apportioned among the

Interexchange category, the billing and collection category and all elements based on the combined interoffice or interstate expenses in §§69.404 through 69.407.

[52 FR 37313, Oct. 6, 1987, as amended at 54 FR 3456, Jan. 24, 1989]

§ 69.409 Corporate operations expenses (included in Account 6720).

All interoffice or interstate corporate operations expenses shall be apportioned among the interexchange category, the billing and collection category and all elements in accordance with the interoffice or interstate Big 3 Expense Factor as defined in §69.2(f).

§ 69.411 Other expenses.

Except as provided in §§69.412, 69.413, and 69.414, expenses that are not apportioned pursuant to §§69.401 through 69.409 shall be apportioned among the interexchange category and all elements in the same manner as interoffice or interstate §69.309 Other investment.

[62 FR 31639, June 11, 1997]

§ 69.412 Non participating company payments/receipts.

For telephone companies that are not association Common Line tariff participants, the payment or receipt of funds described in §69.612(a) and (b) shall be apportioned, respectively, as an addition to or a deduction from their common line revenue requirement.

§ 69.413 Universal service fund expenses.

Expenses allocated to the interstate jurisdiction pursuant to §§36.631 and 36.641 shall be assigned to the Carrier Common Line Element until March 31, 1989. Beginning April 1, 1989, such expenses shall be assigned to the Universal Service Fund Element.

§ 69.414 Lifeline assistance expenses.

Expenses allocated to the interstate jurisdiction pursuant to §36.741 shall be assigned to the Carrier Common Line element until March 31, 1989. Beginning April 1, 1989, such expenses shall be assigned to the Lifeline Assistance element.

Subpart F—Segregation of the Interstate Common Line Element Revenue Requirement

§ 69.501 General.

(a) [Reserved]

(b) Until December 31, 2001, any portion of the Common Line element annual revenue requirement that is attributable to CPE investment or expense or surrogate CPE investment or

expense shall be assigned to the Carrier Common Line element or elements.

(c) Until December 31, 2001, any portion of the Common Line element annual revenue requirement that is attributable to customer premises wiring included in IOT investment or expense shall be assigned to the Carrier Common Line element or elements.

(d) [Reserved]

(e) Until December 31, 2001, any portion of the Common Line element revenue requirement that is not assigned to Carrier Common Line elements pursuant to paragraphs (b) and (c) of this section shall be apportioned between End User Common Line and Carrier Common Line pursuant to §69.502. Such portion of the Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this subpart.

(f) Beginning January 1, 2002, the Common Line element revenue requirement shall be apportioned between End User Common Line and Carrier Common Line pursuant to §69.502. The Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this subpart.

[48 FR 10358, Mar. 11, 1983, as amended at 50 FR 18262, Apr. 30, 1985; 52 FR 21542, June 8, 1987; 52 FR 37314, Oct. 6, 1987; 61 FR 65364, Dec. 12, 1996; 62 FR 31939, June 11, 1997; 66 FR 59733, Nov. 30, 2001]

§ 69.502 Base factor allocation.

Projected revenues from the following shall be deducted from the base factor portion to determine the amount that is assigned to the Carrier Common Line element:

(a) End User Common Line charges, less any marketing expense revenues recovered through end user common line charges pursuant to §69.156;

(b) Special Access surcharges; and

(c) The portion of per-line support that carriers receive pursuant to §54.303.

(d) Beginning July 1, 2002, the portion of per-line support that carriers receive pursuant to §54.901 of this chapter; and

(e) Line port costs in excess of basic analog service pursuant to §69.130.

[62 FR 31939, June 11, 1997, as amended at 62 FR 40464, July 29, 1997; 66 FR 59733, Nov. 30, 2001]

Subpart G—Exchange Carrier Association

§ 69.601 Exchange carrier association.

(a) An association shall be established in order to prepare and file intercarrier compensation tariffs on behalf of all telephone companies that do not file separate tariffs or concur in a joint tariff of another telephone company for all elements.

(b) All telephone companies that participate in the distribution of Carrier Common Line revenue requirement, pay long term support to association Common Line tariff participants, or receive payments from the transitional support fund administered by the association shall be deemed to be members of the association.

(c) All data submissions to the association required by this title shall be accompanied by the following certification statement signed by the officer or employee responsible for the overall preparation for the data submission:

Certification

I am (title of certifying officer or employee). I hereby certify that I have overall responsibility for the preparation of all data in the attached data submission for (name of carrier) and that I am authorized to execute this certification. Based on information known to me or provided to me by employees responsible for the preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with the rules of the Federal Communications Commission.

Date: Name: Title:

(Persons making willful false statements in this data submission can be punished by fine or imprisonment under the provisions of the U.S. Code, Title 18, Section 1001).

[48 FR 10358, Mar. 11, 1983, as amended at 52 FR 21542, June 8, 1987; 60 FR 19530, Apr. 19, 1995]

§ 69.602 Board of directors.

(a) For purposes of this section, the association membership shall be divided into three subsets:

(1) The first subset shall consist of the telephone companies owned and operated by the seven Regional Bell Holding Companies;

- (2) The second subset shall consist of all other telephone companies with annual operating revenues in excess of forty million dollars;
- (3) The third subset shall consist of all other telephone companies. All commonly controlled companies shall be deemed to be one company for purposes of this section.
- (b) There shall be fifteen directors of the association.
- (c) Two directors shall represent the first subset, two directors shall represent the second subset, six directors shall represent the third subset, and five directors shall represent all three subsets.
- (d) No director who represents all three subsets shall be a current or former officer or employee of the association or of any association member, or have a business relationship or other interest that could interfere with his or her exercise of independent judgment.
- (e) Each subset of the association membership shall select the directors who will represent it through elections in which each member of the subset shall be entitled to one vote for each director position within that subset.
- (f) The association membership shall select the directors who will represent all three subsets through an election in which each member of the association shall be entitled to one vote for each director position. No director representing all three subsets may serve for more than six consecutive calendar years without standing for an election in which that director is opposed by at least one other candidate meeting the qualifications in paragraph (d) of this section.
- (g) At least one director representing all three subsets shall be a member of each committee of association directors.
- (h) For each element or group of elements for which voluntary pooling is permitted, there shall be a committee that is responsible for the preparation of charges for the associated elements that comply with all applicable sections in this part.

[60 FR 19530, Apr. 19, 1995, as amended at 68 FR 46502, Aug. 6, 2003]

§ 69.603 Association functions.

- (a) The Association shall not engage in any activity that is not related to the preparation of tariffs or the collection and distribution of intercarrier compensation revenues or the operation of a billing and collection pool on an untariffed basis unless such activity is expressly authorized by order of the Commission.
- (b) Participation in Commission or court proceedings relating to tariffs, the billing and collection of intercarrier charges, the distribution of intercarrier compensation revenues, or the operation of a billing and collection pool on an untariffed basis shall be deemed to be authorized association

activities.

(c) –(e) [Reserved]

(f) The association shall also prepare and file an inter-carrier compensation tariff containing terms and conditions for inter-carrier service and form for the filing of rate schedules by telephone companies that choose to reference these terms and conditions while filing their own inter-carrier compensation rates.

(g) The association shall divide the expenses of its operations into two categories. The first category (“Category I Expenses”) shall consist of those expenses that are associated with the preparation, defense, and modification of association tariffs, those expenses that are associated with the administration of pooled receipts and distributions of exchange carrier revenues resulting from association tariffs, those expenses that are associated with association functions pursuant to §69.603 (c) –(g), and those expenses that pertain to Commission proceedings involving subpart G of part 69 of the Commission’s rules. The second category (“Category II Expenses”) shall consist of all other association expenses. Category I Expenses shall be sub-divided into three components in proportion to the revenues associated with each component. The first component (“Category I.A Expenses”) shall be in proportion to the Universal Service Fund and Lifeline Assistance revenues. The second component (“Category I.B Expenses”) shall be in proportion to the sum of the association End User Common Line revenues, the association Carrier Common Line revenues, the association Special Access Surcharge revenues, the Long Term Support payments and the Transitional Support payments. Beginning July 1, 2002, Interstate Common Line Support revenues shall be included in the allocation base for Category I.B expenses. The third component (“Category I.C Expenses”) shall be in proportion to the revenues from all other association inter-carrier charges.

(h)(1) The revenue requirement for association tariffs filed pursuant to §69.4(c) shall not include any association expenses other than Category I.A Expenses.

(2) The revenue requirement for association tariffs filed pursuant to §69.4 (a) and (b)(2) shall not include any Association expenses other than Category I.B Expenses.

(3) The revenue requirement for association tariffs filed pursuant to §69.4(b) (1) and (3)–(7) shall not include any association expenses other than Category I.C Expenses.

(4) No distribution to an exchange carrier of Universal Service Fund and Lifeline Assistance revenues shall include adjustments for association expenses other than Category I.A Expenses.

(5) No distribution to an exchange carrier of revenues from association End User Common Line or Carrier Common Line charges, Special Access Surcharges or Long Term Support or Transitional Support payments shall include adjustments for association expenses other than Category I.B Expenses. Beginning July 1, 2002, Interstate Common Line Support shall be subject to this provision.

(6) No distribution to an exchange carrier of revenues from association inter-carrier charges other

than End User Common Line and Carrier Common Line charges and Special Access Surcharges shall include adjustments for association expenses other than Category I.C Expenses.

(7) The association shall separately identify all Category I.A, I.B and I.C expenses in cost support materials filed with each annual association tariff filing.

[54 FR 8197, Feb. 27, 1989, as amended at 54 FR 8199, Feb. 27, 1989; 62 FR 41306, Aug. 1, 1997; 63 FR 70578, Dec. 21, 1998; 66 FR 59733, Nov. 30, 2001]

§ 69.604 Billing and collection of inter-carrier charges.

(a) Telephone companies shall bill and collect all inter-carrier charges except those charges specified in §§69.116 and 69.117.

(b) All inter-carrier charges shall be billed monthly.

[51 FR 9012, Mar. 17, 1986, as amended at 52 FR 21543, June 8, 1987]

§ 69.605 Reporting and distribution of pool inter-carrier compensation revenues.

(a) Inter-carrier compensation revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions in accordance with this subpart.

(b) Association expenses incurred during the month that are allowable expenses shall be reimbursed before any other funds are disbursed.

(c) Except as provided in paragraph (b) of this section, payments to average schedule companies that are computed in accordance with §69.606 shall be disbursed before any other funds are disbursed. For purposes of this part, a telephone company that was participating in average schedule settlements on December 1, 1982, shall be deemed to be an average schedule company except that any company that does not join in association tariffs for all elements shall not be deemed to be an average schedule company.

(d) The residue shall be disbursed to telephone companies that are not average schedule companies in accordance with §§69.607 through 69.610.

(e) The association shall submit a report on or before February 1 of each calendar year describing the association's cost study review process for the preceding calendar year as well as the results of that process. For any revisions to cost study results made or recommended by the association that would change the respective carrier's calculated annual common line or traffic sensitive revenue requirement by ten percent or more, the report shall include the following information:

(1) The name of the carrier;

- (2) A detailed description of the revisions;
- (3) The amount of the revisions;
- (4) The impact of the revisions on the carrier's calculated common line and traffic sensitive revenue requirements; and
- (5) The carrier's total annual common line and traffic sensitive revenue requirement.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 17027, May 8, 1986; 52 FR 21543, June 8, 1987; 54 FR 11537, Mar. 21, 1989; 60 FR 19530, Apr. 19, 1995]

§ 69.606 Computation of average schedule company payments.

- (a) Payments shall be made in accordance with a formula approved or modified by the Commission. Such formula shall be designed to produce disbursements to an average schedule company that simulate the disbursements that would be received pursuant to §69.607 by a company that is representative of average schedule companies.
- (b) The association shall submit a proposed revision of the formula for each annual period subsequent to December 31, 1986, or certify that a majority of the directors of the association believe that no revisions are warranted for such period on or before December 31 of the preceding year.

(47 U.S.C. 154 (i) and (j), 201, 202, 203, 205, 218 and 403 and 5 U.S.C. 553)

[48 FR 10358, Mar. 11, 1983, as amended at 50 FR 41356, Oct. 10, 1985; 55 FR 6990, Feb. 28, 1990]

§ 69.607 Disbursement of Carrier Common Line residue.

- (a) The association shall compute a monthly net balance for each member telephone company that is not an average schedule company. If such a company has a negative net balance, the association shall bill that amount to such company. If such a company has a positive net balance, the association shall disburse that amount to such company.
- (b) The net balance for such a company shall be computed by multiplying a hypothetical net balance for such a company by a factor that is computed by dividing the Carrier Common Line residue by the sum of the hypothetical net balances for such companies.
- (c) The hypothetical net balance for each company shall be the sum of the hypothetical net balances for each access element. Such hypothetical net balances shall be computed in accordance with §§69.608 to 69.610.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 42237, Nov. 24, 1986]

§ 69.608 Carrier Common Line hypothetical net balance.

The hypothetical net balance shall be equal to a Carrier Common Line revenue requirement for each such company that is computed in accordance with subpart F of this part.

§ 69.609 End User Common Line hypothetical net balances.

(a) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(b) If the company does participate in the association tariff for such element, the hypothetical net balance shall be computed by multiplying an amount that is computed by deducting access revenues collected by such company for such element from an End User Common Line revenue requirement for such company that is computed in accordance with subpart F of this part by a factor that is computed by dividing access revenues collected by all such companies for such element by an End User Common Line revenue requirement for all such companies that is computed in accordance with subpart F of this part. For purposes of this calculation, access revenues collected shall include any revenues foregone because of a voluntary reduction made pursuant to §69.104(r)(7).

[48 FR 10358, Mar. 11, 1983, as amended at 66 FR 59733, Nov. 30, 2001]

§ 69.610 Other hypothetical net balances.

(a) The hypothetical net balance for an element other than a Common Line element shall be computed as provided in this section.

(b) If the company does not participate in the association tariff for such element, the hypothetical net balance shall be zero.

(c) If the company does participate in the association tariff for such element, the hypothetical net balance shall be computed by deducting inter-carrier compensation revenues collected for such element from the sum of expense attributable to such element and the element residue apportioned to such company. The element residue shall be apportioned among such companies in the same proportions as the net investment attributable to such element.

(d) The element residue shall be computed by deducting expenses of all participating companies attributable to such element from revenues collected by all participating companies for such element.

[48 FR 10358, Mar. 11, 1983, as amended at 51 FR 42237, Nov. 24, 1986]

§ 69.612 Long term and transitional support.

A telephone company that does not participate in the association Common Line tariff shall have computed by the association:

(a) *Long term support obligation.* (1) Beginning July 1, 1994 and until December 31, 1997, the Long Term Support payment obligation of telephone companies that do not participate in the NECA Common Line tariff shall equal the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to §69.105(b)(1).

(2) For the period from April 1, 1989 through June 30, 1994, the Long Term Support payment obligation shall be funded by all telephone companies that are not association Common Line tariff participants and do not receive transitional support pursuant to §69.612(b). The percentage of the total annual Long Term Support requirement paid by each telephone company in this group that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The remaining amount of Long Term Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The association shall inform each telephone company about its mandatory Long Term Support obligations within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to §69.603(e).

(3) Beginning July 1, 1994, and thereafter, the Long Term Support payment obligation shall be funded by each telephone company that files its own Carrier Common Line tariff and does not receive transitional support. The percentage of the total annual Long Term Support requirement paid by each of these companies shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The association shall inform each telephone company about its Long Term Support obligation within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to §69.603(f).

(b) *Transitional support.* (1) Telephone Companies categorized as Level I and Level II Receivers that file their own Common Line tariffs effective April 1, 1989 shall receive Transitional Support for a four year period commencing April 1, 1989. Level II Receivers that file their own Common Line tariffs effective July 1, 1990 shall receive Transitional Support for a four year period

commencing July 1, 1990. Transitional Support for each of these telephone companies shall be computed on the basis of the net revenues less revenue requirement amounts for 1988 (adjusted for the additional revenues resulting from an increase in End User Common Line charges to \$3.50). Transitional Support for these telephone companies during the transition shall be as follows:

Year 1—80% of the adjusted 1988 frozen amount
Year 2—60% of the adjusted 1988 frozen amount
Year 3—40% of the adjusted 1988 frozen amount
Year 4—20% of the adjusted 1988 frozen amount

(2) For the period from April 1, 1989 through June 30, 1994, the Transitional Support Fund shall be funded by all telephone companies or groups of affiliated telephone companies that are not association Common Line tariff participants and do not qualify under §69.612(b)(1) for Transitional Support payments.

[55 FR 6990, Feb. 28, 1990, as amended at 62 FR 32962, June 17, 1997; 63 FR 2133, Jan. 13, 1998]

Subpart H—Pricing Flexibility

Source: 64 FR 51267, Sept. 22, 1999, unless otherwise noted.

§ 69.701 Application of rules in this subpart.

The rules in this subpart apply to all incumbent LECs subject to price cap regulation, as defined in §61.3(x) of this chapter, seeking pricing flexibility on the basis of the development of competition in parts of its service area.

§ 69.703 Definitions.

For purposes of this subpart:

(a) *Channel terminations.* (1) A channel termination between an IXC POP and a serving wire center is a dedicated channel connecting an IXC POP and a serving wire center, offered for purposes of carrying special access traffic.

(2) A channel termination between a LEC end office and a customer premises is a dedicated channel connecting a LEC end office and a customer premises, offered for purposes of carrying special access traffic.

(b) *Metropolitan Statistical Area (MSA).* This term shall have the definition provided in §22.909(a) of this chapter.

(c) *RSP Point of Presence (RSP POP).* The point of interconnection between a RSP's network

and a local exchange carrier's network.

(d) *Wire center*. For purposes of this subpart, the term "wire center" shall refer to any location at which an incumbent LEC is required to provide expanded interconnection for special access pursuant to §64.1401(a) of this chapter, and any location at which an incumbent LEC is required to provide expanded interconnection for switched transport pursuant to §64.1401(b)(1) of this chapter.

(e) *Study area*. A common carrier's entire service area within a state.

§ 69.705 Procedure.

Price cap LECs filing petitions for pricing flexibility shall follow the procedures set forth in §1.774 of this chapter.

§ 69.707 Geographic scope of petition.

(a) *MSA*. (1) A price cap LEC filing a petition for pricing flexibility in an MSA shall include data sufficient to support its petition, as set forth in this subpart, disaggregated by MSA.

(2) A price cap LEC may request pricing flexibility for two or more MSAs in a single petition, provided that it submits supporting data disaggregated by MSA.

(b) *Non-MSA*. (1) A price cap LEC will receive pricing flexibility with respect to those parts of a study area that fall outside of any MSA, provided that it provides data sufficient to support a finding that competitors have collocated in a number of wire centers in that non-MSA region sufficient to satisfy the criteria for the pricing flexibility sought in the petition, as set forth in this subpart, if the region at issue were an MSA.

(2) The petitioner may aggregate data for all the non-MSA regions in a single study area for which it requests pricing flexibility in its petition.

(3) A petitioner may request pricing flexibility in the non-MSA regions of two or more of its study areas, provided that it submits supporting data disaggregated by study area.

§ 69.709 Dedicated transport and special access services other than channel terminations between LEC end offices and customer premises.

(a) *Scope*. This paragraph governs requests for pricing flexibility with respect to the following services:

(1) Entrance facilities, as described in §69.110.

(2) Transport of traffic over dedicated transport facilities between the serving wire center and the

tandem switching office, as described in §69.111(a)(2)(iii).

(3) Direct-trunked transport, as described in §69.112.

(4) Special access services, as described in §69.114, other than channel terminations as defined in §69.703(a)(2) of this part.

(b) *Phase I triggers.* To obtain Phase I pricing flexibility, as specified in §69.727(a) of this part, for the services described in paragraph (a) of this section, a price cap LEC must show that, in the relevant area as described in §69.707 of this part, competitors unaffiliated with the price cap LEC have collocated:

(1) In fifteen percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) In wire centers accounting for 30 percent of the petitioner's revenues from dedicated transport and special access services other than channel terminations between LEC end offices and customer premises, determined as specified in §69.725 of this part, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

(c) *Phase II triggers.* To obtain Phase II pricing flexibility, as specified in §69.727(b) of this part, for the services described in paragraph (a) of this section, a price cap LEC must show that, in the relevant area as described in §69.707 of this part, competitors unaffiliated with the price cap LEC have collocated:

(1) in 50 percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) in wire centers accounting for 65 percent of the petitioner's revenues from dedicated transport and special access services other than channel terminations between LEC end offices and customer premises, determined as specified in §69.725 of this part, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

§ 69.711 Channel terminations between LEC end offices and customer premises.

(a) *Scope.* This paragraph governs requests for pricing flexibility with respect to channel terminations between LEC end offices and customer premises.

(b) *Phase I triggers.* To obtain Phase I pricing flexibility, as specified in §69.727(a) of this part, for channel terminations between LEC end offices and customer premises, a price cap LEC must show that, in the relevant area as described in §69.707 of this part, competitors unaffiliated with

the price cap LEC have collocated:

(1) In 50 percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) In wire centers accounting for 65 percent of the petitioner's revenues from channel terminations between LEC end offices and customer premises, determined as specified in §69.725 of this part, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

(c) *Phase II triggers.* To obtain Phase II pricing flexibility, as specified in §69.727(b) of this part, for channel terminations between LEC end offices and customer premises, a price cap LEC must show that, in the relevant area as described in §69.707, competitors unaffiliated with the price cap LEC have collocated:

(1) In 65 percent of the petitioner's wire centers, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center; or

(2) In wire centers accounting for 85 percent of the petitioner's revenues from channel terminations between LEC end offices and customer premises, determined as specified in §69.725, and that at least one such collocator in each wire center is using transport facilities owned by a transport provider other than the price cap LEC to transport traffic from that wire center.

§ 69.713 Common line, traffic-sensitive, and tandem-switched transport services.

(a) *Scope.* This paragraph governs requests for pricing flexibility with respect to the following services:

(1) Common line services, as described in §§69.152, 69.153, and 69.154.

(2) Services in the traffic-sensitive baskets, as described in §61.42(d)(2) of this chapter.

(3) The traffic-sensitive components of tandem-switched transport services, as described in §§69.111(a)(2)(i) and (ii).

(b) *Phase I triggers.* (1) To obtain Phase I pricing flexibility, as specified in §69.727(a), for the services identified in paragraph (a) of this section, a price cap LEC must provide convincing evidence that, in the relevant area as described in §69.707, its unaffiliated competitors, in aggregate, offer service to at least 15 percent of the price cap LEC's customer locations.

(2) For purposes of the showing required by paragraph (b)(1) of this section, the price cap LEC

may not rely on service the competitors provide solely by reselling the price cap LEC's services, or provide through unbundled network elements as defined in §51.5 of this chapter, except that the price cap LEC may rely on service the competitors provide through the use of the price cap LEC's unbundled loops.

(c) [Reserved]

§§ 69.714-69.724 [Reserved]

§ 69.725 Attribution of revenues to particular wire centers.

If a price cap LEC elects to show, in accordance with §69.709 or §69.711, that competitors have collocated in wire centers accounting for a certain percentage of revenues from the services at issue, the LEC must make the following revenue allocations:

(a) For entrance facilities and channel terminations between an RSP POP and a serving wire center, the petitioner shall attribute all the revenue to the serving wire center.

(b) For channel terminations between a LEC end office and a customer premises, the petitioner shall attribute all the revenue to the LEC end office.

(c) For any dedicated service routed through multiple wire centers, the petitioner shall attribute 50 percent of the revenue to the wire center at each end of the transmission path, unless the petitioner can make a convincing case in its petition that some other allocation would be more representative of the extent of competitive entry in the MSA or the non-MSA parts of the study area at issue.

§ 69.727 Regulatory relief.

(a) *Phase I relief.* Upon satisfaction of the Phase I triggers specified in §§69.709(b), 69.711(b), or 69.713(b) for an MSA or the non-MSA parts of a study area, a price cap LEC will be granted the following regulatory relief in that area for the services specified in §§69.709(a), 69.711(a), or 69.713(a), respectively:

(1) Volume and term discounts;

(2) Contract tariff authority, provided that

(i) Contract tariff services are made generally available to all similarly situated customers; and

(ii) The price cap LEC excludes all contract tariff offerings from price cap regulation pursuant to §61.42(f)(1) of this chapter.

(iii) Before the price cap LEC provides a contract tariffed service, under §69.727(a), to one of its long-distance affiliates, as described in section 272 of the Communications Act of 1934, as

amended, or §64.1903 of this chapter, the price cap LEC certifies to the Commission that it provides service pursuant to that contract tariff to an unaffiliated customer.

(b) *Phase II relief.* Upon satisfaction of the Phase II triggers specified in §§69.709(c) or 69.711(c) for an MSA or the non-MSA parts of a study area, a price cap LEC will be granted the following regulatory relief in that area for the services specified in §§69.709(a) or 69.711(a), respectively:

- (1) Elimination of the rate structure requirements in subpart B of this part;
- (2) Elimination of price cap regulation; and
- (3) Filing of tariff revisions on one day's notice, notwithstanding the notice requirements for tariff filings specified in §61.58 of this chapter.

§ 69.729 New services.

(a) Except for new services subject to paragraph (b) of this section, a price cap LEC may obtain pricing flexibility for a new service that has not been incorporated into a price cap basket by demonstrating in its pricing flexibility petition that the new service would be properly incorporated into one of the price cap baskets and service bands for which the price cap LEC seeks pricing flexibility.

(b) Notwithstanding paragraph (a) of this section, a price cap LEC must demonstrate satisfaction of the triggers in §69.711(b) to be granted pricing flexibility for any new service that falls within the definition of a “channel termination between a LEC end office and a customer premises” as specified in §69.703(a)(2).

§ 69.731 Low-end adjustment mechanism.

(a) Any price cap LEC obtaining Phase I or Phase II pricing flexibility for any service in any MSA in its service region, or for the non-MSA portion of any study area in its service region, shall be prohibited from making any low-end adjustment pursuant to §61.45(d)(1)(vii) of this chapter in all or part of its service region.

(b) Any affiliate of any price cap LEC obtaining Phase I or Phase II pricing flexibility for any service in any MSA in its service region shall be prohibited from making any low-end adjustment pursuant to §61.45(d)(1)(vii) of this chapter in all or part of its service region.